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THE
MERCHANT SHIPPING ACT,
1894.

EDITED, WITH NOTES AND REFERENCES
TO DECIDED CASES,

BY

THOMAS EDWARD SCRUTTON, M.A., LL.B.,

BARRISTER-AT-LAW OF THE MIDDLE TEMPLE;

AUTHOR OF "CHARTER PARTIES AND BILLS OF LADING;"

LATE LECTURER IN COMMON LAW TO THE INCORPORATED LAW SOCIETY.

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PREFACE TO THE SECOND EDITION.

THE first edition of this work having been exhausted, I have added the cases decided since its issue, and substituted the Shipping Casualties Rules, 1895, which came into force on March 17, 1895, for those previously contained in Appendix VIII. Hardly sufficient time has elapsed to judge if the book has fulfilled the purpose with which it was written, namely, to supply a working edition of the Act. But with reference to a criticism made by an experienced reviewer that the decisions on the Collision Regulations have not been inserted, I may say that after some hesitation I decided to omit them, because I did not think any satisfactory annotation could be inserted without seriously increasing the size of a work already too bulky, and without repeating work already satisfactorily done by Mr. Marsden. For the same reason I have not made the part of the Act relating to Salvage a full treatise on Salvage.

Should it be found that the book permanently supplies a want, I think such annotations might usefully be added in another edition, which might also include the Acts dealing with the Admiralty Jurisdiction, whether of the High Court or the County Courts, in whatever form they may then exist.

I shall be gratified for any criticisms or suggestions which may render the book more useful to those for whom it was intended—practising lawyers and men of business.

T. E. S.

3, TEMPLE GARDENS, E.C.,
July 22, 1895.

PREFACE.

THE Merchant Shipping Act, 1894, is the longest Act on the Statute Book, consisting, as it does, of 748 sections and 22 schedules. It repeals thirty-three entire Acts, and parts, more or less substantial, of fifteen others. A few very trivial and temporary provisions are left outstanding, and, which is more important, the statutes as to Admiralty jurisdiction, especially the Admiralty Court Act, 1861, are left unconsolidated, it is to be hoped only to reserve them for a consolidation of the Judicature Acts.

When the Merchant Shipping Bill was first introduced into the House of Commons in 1893, it was found that the draftsman, in his passion for symmetry and elegance, had made changes of the most sweeping description in the language of the Acts, which, when much labour had been spent on examining them, were too frequently discovered to have effected, without meaning to do so, substantial changes in the law. By the direction of the Joint Committee of the two Houses, to whom the Bill was referred, the original language of the statutes consolidated was, as far as possible, restored; and, except where the language has been changed to give effect to decided cases, as in § 57 of the Act, this rule has substantially been carried out. Many provisions of the old Acts which could be changed by authorities other than Parliament have been omitted from the body of the statute, and will be found, either in the schedules to the Act, or in rules printed in the

Appendix. Thus those parts of the provisions of the Act of 1854 relating to tonnage, which can only be altered by Parliament, are to be found in the statute itself; the tonnage regulations which can be altered by the Board of Trade have been relegated to Schedule II.

All the cares of the Revising Committee and the draftsman have been unable to make a complicated subject simple. The Act is explained by 81 chief definitions in § 742, and by at least as many more in the Interpretation Act, 1889, besides numerous minor ones scattered up and down the fourteen parts of the Act. Whenever the reader meets the word "consular officer," he has to recall to his mind the definition in this Act or in the Interpretation Act, according as the consul is foreign or British. But while "ship," "master," and "seaman," each has its more or less comprehensible definition, "crew," "owner," and "British ship," remain undefined.

The rearranging of clauses has frequently resulted in startling displacements. The complete law as to able-bodied seamen, as such, was formerly found in one short section of the Act of 1880; part of it now appears in § 126 of this Act, but the rest has been removed to § 746. A still more sweeping change has been effected in § 3 of the Act of 1854 as to registration, part of which remains as § 3 of this Act, while the other part has been removed to § 745. In this case the idea has been to put temporary provisions by themselves; but as this "temporary provision" affects every British ship in existence on January 1, 1895, and will continue to affect them for thirty years or more, the draftsman appears to have codified for posterity, without much regard to present convenience.

There are signs that all this rearrangement and simplification has not been allied with a very clear grasp of the

Acts. For instance, when the old Acts were being consolidated, it would have been very useful to find in one section all the matters which there was any legal obligation to enter in the ship's log; but though the draftsman of § 240 has recognized, by the 12th sub-section, that there are other matters to be entered than those specified, he has satisfied himself with reproducing the section of the Act of 1854, without incorporating the other obligations as to entries in the log, which subsequent legislation has added. It is true that, to make up for this, part of § 239, as to entries in the log, is repeated in § 169; but it would have been simpler to have all the provisions as to the log in one place, and none in more than one. Even the combination of the draftsman and a strong committee has not sufficed to prevent some shocking mistakes in the marginal notes to the sections, as in § 624, where the section speaks of ships going to London, and the marginal note of ships from London, or in § 604, where the marginal note requires home-trade ships to carry pilots, and the section does not; while the grammar of § 235, s. 1 (c.), where "crew" is made singular and plural in the same sentence, is bad, even for an Act of Parliament. But mistakes must be expected in an Act of this overwhelming length, as well as, I am afraid, in editions of the Act, and it will certainly be convenient to lawyers, as well as mercantile men, to have in one Act of Parliament the tangle that formerly had to be unravelled from forty-eight Acts by much labour.

As regards lawyers, the endeavour has been to make this a working edition of the Act. The cases decided on the old Acts have been cited under the new clauses to which they belong, with notes, where their effect has been destroyed by subsequent legislation. Cross-references have been inserted, to make the task of finding what is in

the Act as quick and easy as is possible with such an Act, and I have preferred to run the risk of offending by excessive cross-references, than of failing to help through insufficiency. The table of sections in the Act has been split up, and the appropriate portion placed at the head of each part, and a lengthy index has been provided.

For business men and captains, the aim has been to enable them, by the index and cross-references, to find what they want quickly, and, where necessary, to explain it clearly. In such matters as deductions from wages (§ 132), or entries in the log-book (§ 240), the various provisions of the Act bearing on the point have been collected in one note.

Such rules as the Merchant Shipping Rules, 1894, the Collision Regulations, the Rules for Life Saving Appliances, and the Rules for Courts of Survey, and a list of the principal pilotage districts are included in the Appendix. The material parts of the Interpretation Act, 1889, which is indispensable to the construction of this Act, have also been printed.

I am indebted to my friends, Mr. A. B. Langridge, of the Middle Temple, for the compilation of the Table of Cases, and for much valuable help in revising the proof-sheets; Mr. H. F. Previt , of the Inner Temple, for help in Part II.; and Mr. Grant Wilson, of the Inner Temple, for help in Parts III. and IV. of the Act.

It is very improbable that the pages which follow are free from mistakes and misprints, and I shall be grateful both for corrections and for an opportunity of using them in another edition.

T. E. S.

3, TEMPLE GARDENS, E.C.,
December 31, 1894.

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LIST OF OFFENCES CREATED, AND OF PENALTIES IMPOSED, BY THE ACT.

It is hoped that this list of the numerous offences created by the Act may be useful to shipowners, masters, and others as a reminder of their legal obligations, though reference in each case should be made to the exact words of the section.

As to the meaning and liabilities of "owner," see § 58, and in Part III. § 359.

The code of procedure is contained in §§ 680-684, and in Part III. in §§ 356, 357.

PART I. OWNERSHIP, REGISTRATION, AND TONNAGE.

Section.	Offence.	Who liable.	Punishment or maximum amount of fine.
2	Failure to register ship		Not recognized as British ship; cf. § 72
7	Non-compliance with rules for marking ship with name, number, and draught of water	Master or owner (s. 3 owner only)	£100
10	Wilful false statement in a builder's certificate	The person granting the certificate	£100
15	Refusal to deliver up certificate of registry	The person so refusing	£100
16	Using an improper certificate of registry	Master or owner	Misdemeanor (cf. § 680) and forfeiture of ship
18	Failure to deliver up provisional certificate under § 18	Master	£50
20	Failure to deliver to registrar certificate of registry for endorsement on change of ownership	Master	£100
21	Failure to deliver up certificate of ship lost or ceasing to be British owned	Owner or master	£100

Section.	Offence.	Who liable.	Punishment or maximum amount of fine.
28	Failure to apply for order for sale on transmission to unqualified person	The unqualified person	Forfeiture of ship or share
44 (11)	Failure to produce proper certificates on sale to unqualified person	Persons applying for certificate of sale and person selling under it	£100
47	Failure to comply with rules as to name of the ship	Any person	£100; ship may be detained
59	Failure to register ship's managing owner or manager	Owner or owners	£100
66	Forgery of documents under Part I. of the Act.	Any person	Felony
67 (1)	False declaration as to title to ship	Any person making, &c.	Misdemeanor ; see § 680
(2)	False declaration as to qualification to own British ship	Any person making, &c.	Misdemeanor (see § 680) and forfeiture of ship or share
68	Failure to declare national character when asked by Customs		Detention of ship
69	Unduly assuming British flag or character		Forfeiture of ship
70	Concealment of British or assumption of foreign character by master or owner of ship	Master (if privy)	Misdemeanor ; see § 680 : forfeiture of ship
71	Acquiring ownership if unqualified	Any such person	Forfeiture of ship or his share therein
73	Carrying improper colours	Master or owner (if on board), or any other person hoisting such colours	£500 and forfeiture of colours
74	Not showing national colours when required by section	Master	£100
78	Carrying goods or stores in space measured for propelling power	Master and owner	£100 each
85	Failure to produce memorandum of space occupied by deck cargo	Master	£100; cf. § 15

PART II.

SEAMEN.

92	Going to sea as officer when not duly certificated, or employing such a person	Any person so doing	£50
103	Failure to produce to chief officer of customs superintendent's certificate as to certificates of competency of officers of ship		Detention of ship

Section.	Offence.	Who liable.	Punishment or maximum amount of fine.
104	Forgery, &c., of certificate of competency	Any person concerned	Misdemeanor ; see § 680
108	Failure to comply with provisions as to indentures of apprenticeship	Any person so failing	£10
109	Failure to produce apprentice and his indentures to superintendent before voyage in foreign-going ship	Master	£5
111	Engaging seamen without licence or employing seamen so engaged	Any person so doing	£20 for each seaman, and forfeiture of licence, if licensed
112	Demanding or receiving remuneration from seamen for engagement other than authorized fees	Any person so acting	£5
113	Failure to make agreement with each member of the crew	Master (foreign-going ship) ; master or owner (home-trade ship)	£5
115 (7)	Wilfully making false statement in any endorsement under this sub-section on agreement with the crew	Master	£20
117	Failure to report changes in crew of foreign-going ships to superintendent before leaving United Kingdom	Master	£5
118	Failure to produce to Customs certificate of due execution and delivery of agreement with crew	Master	Detention of ship
(§)	Failure to deliver agreement with the crew to superintendent at end of voyage (foreign-going ships)	Master	£5
119	Failure to produce to Customs certificate of delivery of agreement with crew	Master or owner	Detention of ship
(3)	Failure to deliver agreement with the crew to superintendent at proper dates (home-trade ships)	Master or owner	£5
120	Failure to make copy of agreement accessible to crew	Master	£5
121	Forgery, &c., of agreements with crew	Any person concerned	Misdemeanor ; see § 680
124	Failure to comply with provisions for engagement of seamen abroad	Master	£5
125 (4)	Failure to exhibit to Customs, &c., statement as to lascars on arrival in United Kingdom	Master and owner (jointly and severally)	£10 per lascar

List of Offences and Penalties.

Section.	Offence.	Who liable.	Punishment or maximum amount of fine.
127	Failure to discharge seaman of foreign-going ship before superintendent	Master or owner	£10
128	Failure to deliver certificate of discharge	Master	£10
(1)			
(2)	Failure to return certificate of competency to officer	Master	£20
130	Forging or making false certificate of discharge or report of character	Any person concerned	Misdemeanor; see § 680
131	For not paying wages before superintendent on discharge before superintendent	Master or owner	£10
132	Failure to deliver account of wages to seaman	Master	£5
134	Failure to pay seaman's wages at proper date (foreign-going ship)	Owner	Seaman's wages run till final settlement
135	Failure to pay seaman's wages at proper date (home-trade ship)	Master or owner	Double pay for each day's delay up to ten days
138	Failure to produce ship's papers on requisition by superintendent.	Owner, or his agent, or master, or mate, or member of the crew	£5
147	Issuing seamen's money orders with fraudulent intent	Superintendent or officer	Felony; penal servitude, five to three years
154	Forgery of documents, &c., for purpose of obtaining money in seamen's savings bank	Any person concerned	Penal servitude, or imprisonment with or without hard labour; see section, and § 680
171	Non-compliance with provisions as to property of deceased seamen in §§ 169, 170	Master, or owner in master's default	Delivery of property, and fine not exceeding treble its value; or if value unknown, not exceeding £50
180	Forgery of documents or giving false evidence, &c., for purpose of obtaining property of deceased seamen	Any person	Penal servitude, or imprisonment with or without hard labour, as in section; cf. § 680

List of Offences and Penalties.

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Section.	Offence.	Who liable.	Punishment or maximum amount of fine.
184	Leaving certain seamen in distress in United Kingdom who become vagrants, &c., within six months	Master, or owner, or (if foreign ship) consignee	£30
187	Wrongfully forcing seamen on shore or leaving them behind	Master or other person belonging to British ship	Misdemeanor ; cf. § 680
188	Discharging or leaving seamen abroad without obtaining sanction or certificate as provided	Master	Misdemeanor ; cf. § 680
189	For failure to deliver account of wages of seaman left abroad	Master	£10 and wages
(2)	For delivering false account	Master	£20 and wages
(5)	For failure to pay such wages	Master	£10 and wages
192	For failure to afford passages home to distressed seamen	Master	£100 per seaman
195	Causing stipulation against volunteering into the Navy to be introduced into the agreement with the crew	Master or owner	£20
196	Failure to deliver effects or pay wages of seaman volunteering into the Navy	Master	£20
197	Forging, &c., or using false evidence on application for return of money lost through seaman volunteering into the Navy	Master or owner	Misdemeanor ; cf. § 680
198	Not providing provisions of proper quality and quantity after requisition by examiner	Master	£20
	Making unreasonable complaint as to water and provisions	Three or more of any crew	Each, one week's wages
200	Failure to provide proper medicines, &c.	Master or owner, in absence of disproof of personal fault	£20
	Failure to serve out medicine, &c., or make entries in log-book, &c.	Master, in absence of disproof of personal fault	£5
	For failure to comply with this section as to medicines, &c.	Any person in default other than master or owner	£20
	For selling, &c., medical stores, &c., of bad quality	Any person	£20
201	Failure to keep on board proper weights and measures, or to allow the same to be used	Master	£10
202	Failure to produce certificate of medical inspector		Detention of ship
	Proceeding to sea without such certificate	Owner, master, or consignee	£20
206	Deficiency in quality of stores or water (in certain ships)		Detention of ship

Section.	Offence.	Who liable.	Punishment or maximum amount of fine.
209	Failure in certain foreign-going ships to carry a medical practitioner	Owner	£100
210	Failure to provide proper accommodation for seamen	Owner	£20
	Failure to keep seamen's accommodation free from cargo, &c.	Master	1s. per day to each seaman after complaint
211	Failure to give facilities for making complaint	Master	£10
214	Breach of any byelaw as to seamen's lodging-houses	Any person	£50
(2)			
(5)	Keeping seamen's lodging-house without licence	Any person	£100
215	Overcharging in seamen's lodging-houses	Any person	£10
216	Detaining seamen's effects	Any person	£10
217	Solicitations or removal of effects by lodging-house keepers on board ship within twenty-four hours after ship's arrival	Any person	£5
218	Being on board ship before seamen leave without permission of master	Any person	£20 or six months' imprisonment
220	Misconduct endangering life or ship	Master, seaman, or apprentice	Misdemeanor (§ 680)
221	Desertion	Seaman or apprentice	Twelve weeks with or without hard labour, forfeiture of wages and effects
(a.)			
(b.)	Absence without leave	Seaman or apprentice	Ten weeks with or without hard labour, forfeiture of certain wages
222	Improperly conveying seaman or apprentice on board ship as deserter	Master, mate, owner, ship's husband, or consignee	£20
223	Improperly arresting a seaman or apprentice out of the United Kingdom	Master, mate, owner, ship's husband, or consignee	£20
(3)			
225	General offences against discipline, i.e. quitting ship without leave at port of delivery, wilful disobedience, continued wilful disobedience, assaulting officers, combination to disobey, wilful damage to ship or cargo, smuggling	Seaman or apprentice	Fines or imprisonment as in section

List of Offences and Penalties.

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Section.	Offence.	Who liable.	Punishment or maximum amount of fine.
227	False statement as to last ship or name of seaman	Any seaman on being engaged	£5
235	Failure to pay fines deducted from wages to superintendent	Master or owner	Six times the amount of the fine
236	Enticing to desert	Any person concerned	£10
(1)			
(2)	Knowingly harbouring deserters	Any person concerned	£20
237	Being a stowaway	Such person	£20, or four weeks with or without hard labour
238	Knowingly harbouring deserters, other than slaves, from foreign ships	Any person concerned	£10
241	Failure to keep log-book as directed	Master	£5
	Making entry in log more than twenty-four hours after arrival	Any person	£30
	Falsifying or mutilating log-book	Any person	Misdemeanor; see § 680
242	Failure to deliver log-book to superintendent	Master or owner; see § 253 (3)	£5
243	Failure to send home logs in case of transfer or loss of ship	Master or owner	£10
248	Embezzlement by officers of marine local boards		Embezzlement under Larceny Act, 1861, § 68
250	Demanding or taking fees without authority at Mercantile Marine Office	Any official in Mercantile Marine Office	£20 and dismissal
253	Failure to produce superintendent's certificate as to delivery of list of the crew on discharge		Detention of ship
(2)			
(3)	Failure to deliver list of crew to superintendent (foreign-going ship)	Master	£5
	Do. (home-trade ship)	Master or owner	£5
254	Failure to comply with provisions as to registering births and deaths at sea	Master	£5
255	Failure to return list of crew to superintendent in case of transfer or loss of ship	Master or owner	£10
257	Failure to deposit ship's documents in foreign ports with consuls or Customs	Master	£20
258	Failure to hand over ship's documents to successor on change of master	Master	£100

PART III.

PASSENGERS.

(See § 359, for ultimate liability of owner for defaults under this Part.)

Sec- tion.	Offence.	Who liable.	Punishment or maximum amount of fine.
271	Passenger steamer attempting to go to sea without certificate of survey		Detention of ship
273	Failure to transmit to Board of Trade declaration of survey of passenger steamer	Owner	10s. per day during delay
280	Failure to deliver up to Board of Trade expired or cancelled certificate of passenger steamer	Owner or master	£10
281	Failure to post up certificate of passenger steamer on board	Owner or master	£10
	Passenger steamer going to sea, etc., without certificate properly posted	Owner Master	£100 £20
282	Forgery, &c., of passenger steamer's certificate or declaration of survey	Any person	Misdemeanor (§ 680)
283	Carrying passengers in excess of certificate on passenger steamer	Owner or master	£20 and 5s. per passenger, or double fares at highest rate for passenger, if fare exceeds 5s.
285	Passenger steamer going to sea without proper equipment	Owner (if in fault) and Master (if in fault)	£100
286	Increasing weight on safety-valve of passenger steamer; cf. § 433	Any person	£50 £100
287 (1)	Offences in connection with passenger steamers (as per section); i.e. being drunk and disorderly, molesting any passenger, refusing to leave steamer, or to show ticket, travelling without paying fare	Any person	40s.
(2)	Wilful obstruction on board passenger steamer	Any person	£20
(4)	Refusal to give correct name and address after committing an offence	Any person	£20
289	Failing to comply with section as to survey of emigrant ships	Owner, charterer, or master	£100
290	Failing to properly equip an emigrant ship	Master	£50
291	Carrying passengers in improper places	Master	£500

List of Offences and Penalties.

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Section.	Offence.	Who liable.	Punishment or maximum amount of fine.
292	Carrying excess number of steerage passengers	Master	£20 per passenger in excess
293	Failure to provide proper accommodation for steerage passengers in emigrant ships	Owner, charterer, or master, or any of them; unless master alone mentioned in regulations	£50
294	Stowing cargo, &c., so as to interfere with steerage passengers on emigrant ship	Owner, charterer, or master, or any of them	£300
295 (5)	Obtaining a clearance of emigrant ship without having proper supply of provisions and water	Owner, charterer, or master, or any of them	£100
(8)	Failure to land, or reshipping provisions or water of bad quality	Owner, charterer, or master, or any of them	£100
296	Carrying water improperly on emigrant ships	Owner, charterer, or master, or any of them	£50
298	Not issuing water or provisions according to scale during voyage of emigrant ship	Master	£50
300 (3)	Not carrying proper medical stores on emigrant ship	Master	£50
(5)	Clearing emigrant ship outwards without proper certificate (medical)	Master	£100
301	Carriage of dangerous goods, &c., on emigrant ship	Owner, charterer, or master	£300
302	Not complying with conditions as to carriage of military stores on emigrant ship	Master	£300
303 (5)	Not carrying proper medical practitioner on emigrant ship	Master	£100
(6)	Proceeding as medical practitioner when unauthorized	Any person so doing, and any person aiding and abetting him	£100
304	Failure to carry proper stewards, cooks, and interpreters on emigrant ship	Master	£50
305	Carrying insufficient crew on emigrant ship	Master	£50
306	Non-compliance with rules for medical inspection of emigrant ship	Master	£100
307	Embarking or failure to re-land sick emigrant against orders of the emigration officer	Master, owner, or charterer, or any of them	£200
	Sick emigrant remaining on board emigrant ship, or embarking against orders of emigration officer	The emigrant in question	40s. per day

Section.	Offence.	Who liable.	Punishment or maximum amount of fine.
311	Not signing and delivering passengers' list, or delivering irregular or false passengers' list	Master	£100
312	Not signing and delivering list of passengers shipped after clearance on emigrant ship	Master	£50
313	Attempting to gain passage on emigrant ship without payment	Any person so found on emigrant ship	£20, or three months with or without hard labour
315	Failing to give proper facilities to emigration officer for inspection of ships carrying steerage passengers	Master	£50
316	Failing to replenish provisions, &c., on emigrant ship putting back	Master	£100
317	Failing to report emigrant ship putting back to emigration officer	Master	£20
319	Emigrant ship proceeding to sea without certificate of clearance		Forfeiture of ship, which may be released on payment of sum not exceeding £2000
320	Failing to give proper contract tickets to steerage passenger or cabin passenger on emigrant ship	Any person	£50
322	Failure to produce to emigration officer contract ticket or counterpart on demand	Passenger, owner, charterer, or master	£10
323	Altering, &c., any contract ticket	Any person	£20
325	Breach of discipline on board emigrant ship	Any person	£2 and one month
326	Sale of spirits on emigrant ship to steerage passenger	Any person	£20
327	Failure to maintain emigrants forty-eight hours after arrival in emigrant ship	Master	£5
330	Landing steerage passengers at wrong place	Master	£50
331 (4)	Failure to leave damaged emigrant ship when ordered	Any steerage passenger	£2 or one month's imprisonment
336	Failure to give emigration officer correct list of steerage passengers on arrival in United Kingdom	Master	£50
337	Carrying more steerage passengers to United Kingdom than allowed	Master	£10 for each statute adult in excess

Section.	Offence.	Who liable.	Punishment or maximum amount of fine.
338	Failure to provide steerage passengers with proper provisions and water in emigrant ships to United Kingdom	Master	£50
342	Failure of passage broker to enter into bond and obtain licence	Any such person	£50
345	Employing passage broker's agent not duly appointed; agent not producing such appointment when required	Passage broker or agent	£50
316	Not exhibiting list of agents and runners; not sending copy of such list to emigration officer, or reporting discharges or engagements of runners	Passage broker	£5
350	Acting as emigrant runner without licence, &c., using runner's badge without authority, employing unlicensed person as emigrant runner	Any person	£5
351	Misconduct as emigrant runner (see section)	Emigrant runner	£2 and forfeiture of licence
352	Emigrant runner demanding fees from person about to emigrate	Emigrant runner	£5
353	Fraudulently inducing person to take steerage passage	Any person	£20
354	Fraud or forgery in connection with assisting emigration	Any person	£50
361	Failure to post abstracts of this part of the Act in emigrant ships	Master	40s. per day when abstract is not posted
	Defacing, &c., such abstract	Any person	40s.

PART IV.

FISHING-BOATS.

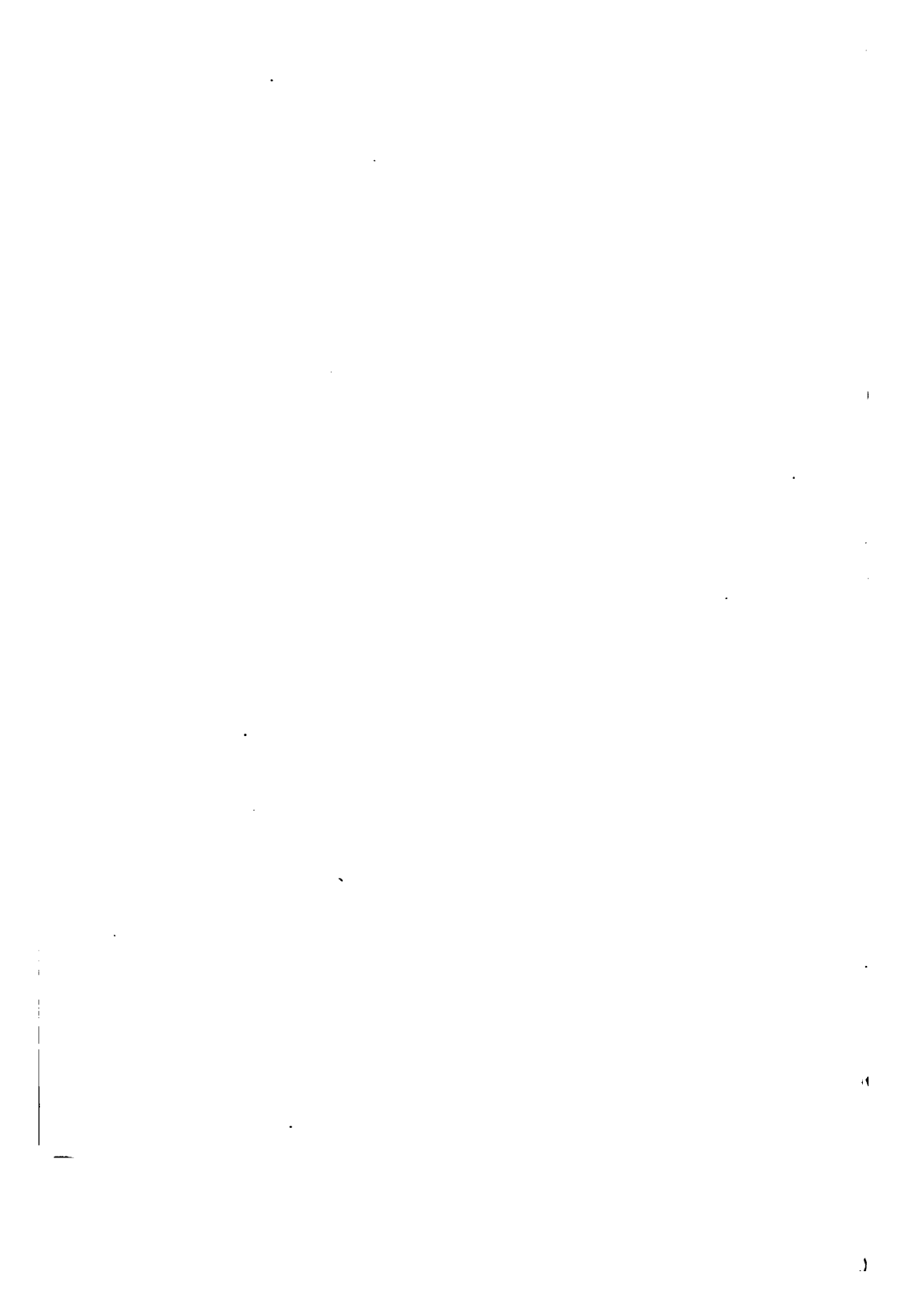
373	Using boat as fishing-boat when unregistered	Owner and skipper	£20 each
375	Not providing boats or lifebuoys, &c., for fishing-boats	Owner (if in fault) Skipper (if in fault)	£100 £50
376	Offences against discipline on fishing-boat; i.e. desertion, absence without leave, wrongfully quitting boat, wilful disobedience, assault, unlawful combination, wilful damage, smuggling	Seaman or apprentice	Fines or imprisonment (see section)
385	Failure to duly record and report deaths, injuries, punishments, &c., on fishing-boats	Skipper	£20

Section.	Offence.	Who liable.	Punishment or maximum amount of fine.
388	Failure to render proper account of catch, &c., to skipper or seaman of fishing-boat	Owner	£5
	Failure duly to submit accounts, &c., on dispute to such skipper or seaman	Owner	£20
393	Taking boy to sea in fishing-boat unapprenticed or without proper agreement	Any person	£20
398	Taking money for apprenticeships or boys' agreements on fishing-boats	Any person	Misdemeanor ; see § 680
399	Failure of skippers of trawlers of twenty-five tons and upwards to enter into fishing-boat's agreement with each seaman	Skipper	£5
404	Making false endorsement knowingly on running agreement of trawlers of over twenty-five tons	Skipper	£5
405	Failing to send report of crew to superintendent in case of trawlers over twenty-five tons	Each owner and the registered managing owner	£5
406	Failure to send to superintendent statement of change in crew of trawler in case of running agreements	Skipper	£5
408	Fraudulent alterations or entries, &c., in fishing-boat's agreement	Skipper	£20
409	Failure to deliver account of wages to seamen on trawlers over twenty-five tons	Owner or skipper	£5
410	Failure to deliver certificate of discharge to seamen in trawler over twenty-five tons	Skipper	£5
413 (1)	Letting trawlers over twenty-five tons go to sea without skipper and second hand duly certificated	Owner	£20
(2)	Going to sea as skipper or second hand when uncertificated or for employing such person	Any person	£20
417	Failure to comply with regulations as to conveyance of fish from trawlers	Any person	£10

PART V.

SAFETY.

Section.	Offence.	Who liable.	Punishment or maximum amount of fine.
423	Failure to enter collision in official log	Master	£20
425	Failure to report to Board of Trade accident to steamship	Owner or master	£50
426	Failure to report loss of ship to Board of Trade	Managing owner or ship's husband	£50
430	Breach of rules as to life-saving apparatus	Owner (if in fault) and Master (if in fault)	£100
432	Failure to provide hose and adjust compasses	Owner (if in fault) and Master (if in fault)	£50 £100
433	Placing undue weight on safety-valve; cf. § 286	Any person so doing	£50 £100
435	Failure to provide signals of distress, &c., on ship going to sea	Owner (if in fault) and Master (if in fault)	£100
436	Failure to record draught of ship and clearside, &c., in official log, or to produce same to any chief officer of customs	Master	£50 £20
(3)			
(4)	Failure to permit authorized person to measure ship's draught	Master	£5
439	Submersion of load-line		Detention of ship
440	Failure to make statement on entering ship outwards of distance between load-lines and deck-lines		Detention of ship
441	Failure to transmit notice of marking renewal or alterations of load-lines in coasting vessels to Customs at port of registry	Owner	£100
442	Failure to mark load-line, or loading ship so as to submerge load-line	Owner or master	£100
1(a.)			
1(b.)	Defacing, &c., load-line	Any person	£100
(2)	Inaccurate marking of load-line, &c.	Owner	£100
443	Failure to comply with regulations as to load line	Any person	£100
446	Knowingly sending by ship or carrying dangerous goods	Any person	£100
	Unknowingly as agent so acting	Any person (burden of proof of want of knowledge on defendant)	£10



LIST OF OFFENCES CREATED, AND OF PENALTIES IMPOSED, BY THE ACT.

It is hoped that this list of the numerous offences created by the Act may be useful to shipowners, masters, and others as a reminder of their legal obligations, though reference in each case should be made to the exact words of the section.

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The code of procedure is contained in §§ 680-684, and in Part III. in §§ 356, 357.

PART I. OWNERSHIP, REGISTRATION, AND TONNAGE.

Section.	Offence.	Who liable.	Punishment or maximum amount of fine.
2	Failure to register ship		Not recognized as British ship; cf. § 72
7	Non-compliance with rules for marking ship with name, number, and draught of water	Master or owner (s. 3 owner only)	£100
10	Wilful false statement in a builder's certificate	The person granting the certificate	£100
15	Refusal to deliver up certificate of registry	The person so refusing	£100
16	Using an improper certificate of registry	Master or owner	Misdemeanor (cf. § 680) and forfeiture of ship
18	Failure to deliver up provisional certificate under § 18	Master	£50
20	Failure to deliver to registrar certificate of registry for endorsement on change of ownership	Master	£100
21	Failure to deliver up certificate of ship lost or ceasing to be British owned	Owner or master	£100

Section.	Offence.	Who liable.	Punishment or maximum amount of fine.
564	Forgery, false evidence, &c., in connection with claims for salvage by her Majesty's ships	Any person concerned	Imprisonment with or without hard labour, not exceeding two years

PART X.

PILOTAGE.

587	Failing to produce copy of pilotage provisions, rates, and bye-laws to employer	Pilot	£5
588	Failing to produce his licence to employer	Pilot	£10, and suspension or dismissal by pilotage authority
589	Failing to produce or return licence to pilotage authority	Pilot or any person obtaining licence	£10
590	Using a pilot's licence when unqualified	Any unqualified pilot	£50
592	Receiving or offering other than legal rates of pilotage	Master or pilot so acting	£10
595	Falsely declaring draught of ship to qualified pilot	Master	Fine of double the pilotage dues
	Fraudulently altering marks of draught on stem or stern-post	Master or any person interested in ship	£500
598	Piloting a vessel when qualified pilot is ready to do so	An unqualified pilot	£50
	Knowingly employing unqualified pilot when qualified pilot is available	Master	Double pilotage dues
601	Misconduct or incompetency in pilotage	Any pilot	Withdrawal of certificate
603	Failure to employ available pilot when pilotage is compulsory	Master, unless he or mate holds pilotage certificate	Double pilotage dues
604	Failure in home-trade passenger ships to carry a pilot	Master, unless he or mate holds pilotage certificate	£100
606	Offences of pilots under this section (eleven offences)	Pilot	£100, and liability for damages, and suspension or dismissal

Section.	Offences.	Who liable.	Punishment or maximum amount of fine.
606	Aiding, &c., such offences	Any person	£100, and liability for damages, and, if pilot, suspension or dismissal
607	Endangering ship, life, &c., by misconduct or neglect in pilotage	Pilot	Misdemeanor (§ 680), and suspension or dismissal
608	Obtaining or endeavouring to obtain charge of a ship by misrepresentation	Any person so acting, and any person aiding and abetting	£100, and liability for damage, and, if qualified, suspension or dismissal
612	Failure to preserve characteristics of pilot boat	Master thereof	£20
613	Failure to exhibit pilot flag when on board a ship as pilot	Any qualified pilot	£50
	Failure to exhibit pilot flag when master or mate has a pilotage certificate, and ship is within a pilotage district	Master	£20
614	Carrying pilot flag on ordinary boat	Owner or master	£50
615	Improper display of pilot signals or display of improper pilot signals	Master	£20
622	Navigating in Trinity House districts without a pilot	Master, unless he or mate has pilotage certificate	£5 per fifty tons burden, and other penalty; cf. § 598
624	Failing to signal for pilot off Dungeness, and to take him on board	Master	Double pilotage dues
630	Giving to Trinity House false account of his earnings, or for making default in payment	Any qualified pilot	Double the amount payable, and dismissal or suspension

PART XI.

LIGHTHOUSES.

650	Failure to pay light dues		Distress on ship
666	Injury to lighthouses, lightship, buoys, or beacons	Any person	£50 and damage done
667	Failing to remove private light when ordered	Any person	£100, and any other penalties for common nuisance

PART XIII.

LEGAL PROCEEDINGS.

Section.	Offence.	Who liable.	Punishment or maximum amount of fine.
689 (4)	Refusal to receive an offender or witness on board British ship on order of consular officer, or to deliver offender up to police	Master	£50
692 (1)	Going to sea in or sending to sea a ship lawfully detained	Master and owner, and any other person sending ship to sea (if privy)	£100
(2)	Taking to sea the detaining officer	Owner and master	All expenses and £100, or £10 per day till officer returns
695 (3)	Falsely and wilfully certifying a document true copy or extract	Officer so doing	Misdemeanor (§ 680); imprisonment not exceeding eighteen months
(4)	Forgery, &c., of any document admissible in evidence	Any person	Felony; seven years' penal servitude or two years' imprisonment
696	Obstructing service of document (as to unseaworthiness) on master	Any person Master or owner (if privy)	£10 Misdemeanor (§ 689)

PART XIV.

SUPPLEMENTARY.

722	Forgery, &c., of forms issued by Board of Trade	Any person	Misdemeanor (§ 680)
	Using wrong form or one not issued by Board of Trade	Any person	£10
723 (2)	Disobeying or obstructing any officer authorized to carry out this Act (see section)	Any person	£20
724 (4)	Receiving or demanding unauthorized fees, &c.	A surveyor of ships	£50
725	Hindering a surveyor of ships in his duty	Any person	£5
726	Failure to give returns or information to surveyor of ships on request	Owner, master, or engineer	£5
729 (3)	Refusing to attend as a witness or to give evidence before a Board of Trade inspector	Any person	£10
730	Obstructing Board of Trade inspector	Any person	£10

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ADDENDA.

In *O'Neil v. Armstrong Mitchell & Co.* (1895, 2 Q. B. 70; 43 W. R. 554) the English crew of a Japanese warship, engaged for a voyage from Newcastle to Japan, were held entitled to abandon the voyage while in progress and recover the agreed wages, on war breaking out between China and Japan, and also recovered general damages. Note at p. 127.

As to priority of mortgagees, see *The Benwell Tower*, 72 L. T. 664.

Stafford v. Dyer is also reported in 64 L. J. M. C. 15.

The Satanita (Limitation of Liability), reversed in the C. A., is reported 1895, P. 248; 43 W. R. 498.

The Charlton (Compulsory Pilotage) was affirmed in the C. A. on June 29, 1895.

MERCHANT SHIPPING ACT, 1894.

[57 & 58 VICT. c. 60.]

The marginal references are to the old sections reproduced.

1854 = 17 & 18 Vict. c. 104.

1862 = 25 & 26 Vict. c. 63.

Int. Act, 1889 = Interpretation Act, 1889 (52 & 53 Vict. c. 63); see Appendix.

PRELIMINARY NOTE TO PART I.

REGISTRY.

THIS Part of the Act deals with the ship, its owners and their various titles, and its registration, with which the provisions as to ascertaining its tonnage are connected. Part II. deals with the master and crew, and Part III. with the passenger. Section 1 provides the qualification for an owner of British shipping, and § 2 renders it necessary for a British ship to be registered. While §§ 4-21, 47-54, 68-65, and 88-90 contain in the main provisions for registration, they also, in conjunction with §§ 55, 56, 57, deal with ownership from the point of view of the register. In the same way, §§ 24-46, chiefly dealing with the transfer of ownership or interest in ships by sale or mortgage,

incidentally affect the register as recording them. Though a British ship is not expressly defined, (see note to § 1), various forms of undue assumption of such a character are provided against in §§ 68-76. Sections 77-87, with Schedule II., are taken up with the rules by which a ship's tonnage is ascertained. This Part, though short, contains many provisions which have been the subject of discussion in the courts, and the notes are correspondingly lengthy. The term "British ship" will be found discussed under § 1, and "owner" under § 58.

The basis of this part of the Act is Part II. of the Act of 1854, to which one or two minor Acts have been added, as appears by the marginal references.

PART I.

ARRANGEMENT OF SECTIONS.

REGISTRY.

Qualification for owning British Ships.

Section.

1. Qualification for owning British ships (p. 8).

Obligation to register British Ships.

2. Obligation to register British ships (p. 10).
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The marginal references are to the old sections reproduced.

1854 = 17 & 18 Vict. c. 104.

1862 = 25 & 26 Vict. c. 63.

Int. Act, 1889 = Interpretation Act 1889 (52 & 53 Vict. c. 63); see Appendix.

CHAPTER 60.

An Act to consolidate (a) Enactments relating to Merchant Shipping. [25th August, 1894.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present

(a) The true principle of construing such an Act as this has been explained by Lord Herschell, in *Bank of England v. Vagliano* (1891), A. C., at pp. 144, 145, where, speaking of the Bills of Exchange Act, which purports in its preamble to "codify" the law, he says:—"The proper course, in the first instance, is to examine the language of the statute, and to ask what is its natural meaning, uninfluenced by any considerations derived from the previous state of the law, and not to start with inquiring how the law previously stood, and then, assuming that it was probably intended to leave it unaltered, to see if the words of the enactment will bear an interpretation in conformity with this view. . . . The purpose of such a statute surely was that on any point specifically dealt with by it the law should be ascertained by interpreting the language used, instead of, as before, by roaming over a vast number

of authorities in order to discover what the law was. . . . I am, of course, far from asserting that resort may never be had to the previous state of the law for the purpose of aiding in the construction of the provisions of the code. If, for example, a provision be of doubtful import, such resort would be perfectly legitimate. Or if, again, in a code . . . words be found which have previously acquired a technical meaning, or been used in a sense other than their ordinary one, . . . the same interpretation might well be put upon them in the code." Thus the first question in this Act will be, "What does the Act say?" but decisions on the same words when used in former Acts may be referred to, as showing their meaning in this Act. See *The Castlegate* (1893), A. C. 38, where the words, "on account of the ship," in an Act of 1889, were construed by decisions on the same words in an Act of 1861, though those decisions

Parliament assembled, and by the authority of the same, as follows:—

PART I. (b)

REGISTRY.

Qualification for owning British Ships.

Qualification for owning British Ships.

Qualification for owning British ship.
1854, s. 18.

1. A ship (c) shall not be deemed (d) to be a British ship (e) unless owned wholly by persons (f) of the following

were based on an erroneous view of the effect of the Act of 1861 in conferring a lien. The tendency of the courts will undoubtedly be to construe this Act as reproducing and not amending the previous statutes, though they will not look at the repeated declarations to that effect of the minister who introduced the Bill, or the select committee who revised it.

(b) By § 91 this Part of the Act applies to (i.e. is in force throughout; cf. *Cope v. Doherty* (1858), 2 De G. & J., at p. 623) the whole of Her Majesty's dominions, and to all places where Her Majesty has jurisdiction. The question whether any particular provision of it binds foreign ships and foreign owners, must be governed by the particular words of that provision; but there is a presumption that the British Parliament did not intend to legislate as to the rights and liabilities of foreigners, and to override that presumption either the words or context must be very clear (per Turner, L.J., in *Cope v. Doherty*, *supra*, at p. 624). So also, the Act being divided into separate parts, each relating to a distinct branch of merchant shipping law, one part of the Act throws no more light on another than if it were a separate and distinct Act (S. C., at p. 623).

(c) Defined, § 742.

(d) If the ship is not so deemed, she is apparently in the same position as a foreign ship, except as liable to forfeiture in whole or in part under §§ 69, 71; but she is not within the provisions of § 72, which apply only

to ships "not recognized as British"; see § 2.

(e) While "ship" is defined in § 742 as "including every description of vessel used in navigation not propelled by oars," "British ship" is not expressly defined in the Act. A British ship requires the following qualifications:—

I. The ship must be entirely owned by persons qualified under § 1; otherwise she is "not deemed to be a British ship," and may be subject to forfeiture under §§ 69 and 71, a means of protection being afforded by § 28.

II. The ship, unless exempt under § 3, must be registered under § 2, either in the United Kingdom or elsewhere in the British dominions (cf. § 4). Otherwise she will not be recognized as a British ship (§ 2, s. 2), and will have none of the benefits and all the liabilities of a ship which is recognized as British (§ 72). Part II., however, applies to "unregistered British ships," as if they were registered (§ 266), cf. § 486, s. 2.

As from § 266 it appears that there is such a thing as an unregistered British ship, it would seem that registration is not essential to the condition, in fact, of a British ship, though it is sometimes to the legal recognition of that condition. The only essential seems, therefore, to be that the ship should be owned entirely by persons qualified under § 1. Neither the place where she is built nor the trade in which she is employed are material; her ownership is vital.

(f) Includes corporations; Int. Act, 1889, § 19.

description (in this Act referred to as persons qualified to be owners of British ships (*g*)), namely,

- (a.) Natural-born British subjects (*h*) :
- (b.) Persons naturalized by or in pursuance of an Act of Parliament of the United Kingdom (*i*), or by or in pursuance of an Act or ordinance of the proper legislative authority (*k*) in a British possession (*l*) :
- (c.) Persons made denizens by letters of denization (*m*); and
- (d.) Bodies corporate established under and subject to the laws of some part of Her Majesty's dominions, and having their principal place of business in those dominions (*n*) :

Provided that any person who either—

- (i.) Being a natural-born British subject (*h*) has taken the oath of allegiance to a foreign sovereign or state or has become a citizen or subject of a foreign state (*o*) ; or
- (ii.) Has been naturalized or made a denizen as aforesaid (*p*) ;

shall not be qualified to be owner (*q*) of a British ship (*g*) unless, after taking the said oath, or becoming a citizen or subject of a foreign state, or on or after being naturalized or made denizen as aforesaid, he has taken the oath of allegiance to Her Majesty the Queen, and is during the time he is owner (*q*) of the ship either resident (*r*) in Her

(*g*) See note (e), p. 8.

(*h*) All persons born in Her Majesty's dominions, and certain persons born abroad, whose fathers or paternal grandfathers were natural born subjects, owing allegiance to the Crown. See Stephen's *Blackstone*, bk. iv. pt. i. ch. ii., and 7 Anne, c. 5 ; 4 Geo. II. c. 21 ; 13 Geo. III. c. 21.

(*i*) 33 & 34 Vict. c. 14. The principal conditions are (§ 7): residence or service of the Crown for not less than five years in British dominions ; and intention so to reside or serve the Crown. Section 14 reads:—"Nothing in this Act shall qualify an alien to be the owner of a British ship."

(*k*) Int. Act, 1889, § 20, s. 7.

(*l*) *Ibid.* s. 2.

(*m*) Aliens born, made British subjects by royal letters patent.

(*n*) *Semble*, that the registered office of a company will be treated as its principal place of business. See for discussion of similar questions, *Haggin v. Comptoir d'Escompte*, (1889), 23 Q. B. D. 519 ; *Golding v. La Sainte Union* (1892), 67 L. T. 605.

(*o*) Naturalization Act, 1870, 33 Vict. c. 14, s. 6.

(*p*) Sub-s. (*b.*), (*c.*).

(*q*) See notes to § 58. This section is not only concerned with owners on the register, but affects foreigners only equitably interested in ships ; cf. §§ 9 (*a.*), 25 (*b.*).

(*r*) See cases on residence, cited in *Annual Practice*, in notes on Order XI. r. 1 (*a.*) ; and on Income Tax Statutes, Dowell, 3rd edit., pp. 220, 221.

Majesty's dominions, or partner in a firm actually carrying on business (s) in Her Majesty's dominions.

Obligation to register British Ships (t).

Obligation
to register
British
ships.
1854, s. 19.

2.—(1.) Every British ship (u) shall, unless exempted from registry (x), be registered under this Act (y).

(2.) If a ship required by this Act to be registered is not registered under this Act she shall not be recognized as a British ship (z).

(3.) A ship (a) required by this Act to be registered may be detained (b) until the master (a) of the ship (a), if so required, produces the certificate of the registry of the ship (c).

Exemptions from
registry.
1854, s. 19.

3. The following ships are exempted from registry under this Act (d) :—

(1.) Ships (a) not exceeding fifteen tons burden (d) employed solely in navigation on the rivers or coasts of the United Kingdom, or on the rivers or coasts of some British possession (e) within which the managing owners (f) of the ships are resident (g) :

(2.) Ships (a) not exceeding thirty tons burden (d), and not having a whole or fixed deck, and employed solely in fishing or trading coastwise on the shores of Newfoundland or parts adjacent thereto, or in the

(s) See cases on "carrying on business," cited in Annual Practice, in notes on Order XLVIII. a. r. 1; and on Income Tax Statutes, Dowell, 3rd edit., pp. 222, 223.

(t) The declarations as to the policy of this provision contained in the report of *Liverpool Bank v. Turner*, (1860), 1 J. & H. 159, 2 De G. F. & J. 502, have been weakened by the Act of 1862, which allowed the courts to recognize unregistered interests.

(u) See note (e), p. 8.

(x) § 3.

(y) By § 745, s. (e) ships registered under the repealed Acts are deemed to have been registered under this Act, and need not re-register. As to registry of fishing-boats, see § 373, Part IV. As to registration of altered ships, see § 48, s. 2.

(z) § 72 gives the consequences. Cf. *The Andalusian* (1878), 3 P. D. 182, where an unregistered launch in collision was held not entitled to limit her liability as a British ship; but as to the application of Part II. of this Act, see § 266, which overrules *Leary v. Lloyd* (1860), 3 E. & E. 178.

(a) Defined, § 742.

(b) § 692.

(c) § 14.

(d) Registration of ships in reality exempt does not render them liable to the same obligations as are imposed on ships properly registered; e.g. they need not be transferred by bill of sale. *Benyon v. Cresswell* (1818), 12 Q. B. 899.

(e) Int. Act, 1889, § 20, s. 2.

(f) § 69.

(g) See note (r), p. 9.

Gulf of Saint Lawrence, or on such portions of the coasts of Canada as lie bordering on that gulf.

Procedure for Registration (h).

*Procedure
for Regis-
tration.*

4.—(1.) The following persons shall be registrars of British (i) ships :—

- | | |
|--|--|
| (a.) At any port (k) in the United Kingdom, or Isle of Man, approved by the Commissioners of Customs for the registry of ships, the chief officer of customs (k) : | Registrars of British ships.
1854, ss.
30, 93.
32 & 33
Vict. c. 11,
s. 6. |
| (b.) In Guernsey and Jersey, the chief officers of customs together with the governor (l) : | 36 & 37
Vict. c. 85, |
| (c.) In Malta and Gibraltar, the governor (l) : | s. 29. |
| (d.) At Calcutta, Madras, and Bombay, the port officer : | 50 & 51 |
| (e.) At any other port (k) in any British possession (m) approved by the governor (l) of the possession for the registry of ships, the chief officer of customs (k), or, if there is no such officer there resident, the governor (l) of the possession (m) in which the port (k) is situate, or any officer appointed for the purpose by the governor : | Vict. c. 62,
s. 3. |

(f.) At a port of registry (n) established by Order in Council under this Act (o), persons of the description in that behalf declared by the Order :

(2.) Notwithstanding anything in this section Her Majesty may by Order in Council (p) declare, with respect to any British possession (m) named in the Order, not being the Channel Islands or the Isle of Man, the description of

(h) Shortly summarized, the procedure is this: the registrar must be furnished with—

- (1.) The certificate of survey (§ 6) ;
- (2.) An application for registry (§ 8) ;
- (3.) A declaration of ownership (§ 9) ;
- (4.) A builder's certificate or other evidence (§ 10) ; and
- (5.) The ship must be duly marked (§ 7).

Thereupon it will become the registrar's duty—

- (6.) To register (§ 11) in the

register book (§ 5) ;

(7.) To grant a certificate of registry (§ 14) ; and

(8.) To retain certain documents (§ 12).

And he may be called upon, under §§ 19, 20, to make certain alterations on the register.

(i) See note to § 1.

(k) Defined, § 742.

(l) Int. Act, 1889, § 18, s. 6.

(m) Ibid. s. 2.

(n) At present, only Shanghai.

(o) § 88.

(p) § 738.

persons who are to be registrars of British ships (*r*) in that possession.

(3.) A registrar shall not be liable to damages or otherwise for any loss accruing to any person by reason of any act done or default made by him in his character of registrar, unless the same has happened through his neglect or wilful act.

Register
book.
1854, ss.
32, 37.
43 & 44
Vict. c. 18,
s. 2.

5. Every registrar (*s*) of British ships (*r*) shall keep a book to be called the register book (*t*), and entries in that book shall be made in accordance with the following provisions:—

- (i.) The property in a ship (*u*) shall be divided into sixty-four shares (*x*):
- (ii.) Subject to the provisions of this Act with respect to joint owners (*y*) or owners by transmission (*z*), not more than sixty-four individuals shall be entitled to be registered at the same time as owners of any one ship; but this rule shall not affect the beneficial title (*a*) of any number of persons (*b*) or of any company represented by or claiming under or through any registered owner or joint owner (*y*):
- (iii.) A person (*b*) shall not be entitled to be registered as owner of a fractional part of a share in a ship (*u*); but any number of persons (*b*) not exceeding five may be registered as joint owners of a ship (*u*) or of any share or shares therein:
- (iv.) Joint owners shall be considered as constituting one person only as regards the persons entitled to be registered, and shall not be entitled to dispose in severalty of any interest in a ship, or in any share therein in respect of which they are registered (*c*):

- (*r*) See note to § 1 (p. 8 (*e*)).
 (*s*) § 4.
 (*t*) Penalties for forging, &c.;
 § 66.
 (*u*) Defined, § 742.
 (*x*) In the case of single-ship companies, or companies owning several ships, the company appears on the register as owning the entire

- ship.
 (*y*) § 5, s. 3.
 (*z*) § 27.
 (*a*) Cf. § 57.
 (*b*) Includes corporations; Int. Act,
 1889, § 19.
 (*c*) That is, on the register; a joint owner may pass his beneficial interest, which will be recognized under § 57.

(v.) A corporation may be registered as owner by its corporate name.

6. Every British (*d*) ship (*e*) shall before registry (*f*) be surveyed (*g*) by a surveyor of ships (*h*) and her tonnage ascertained in accordance with the tonnage regulations of this Act (*i*), and the surveyor shall grant his certificate (*k*) specifying the ship's tonnage and build, and such other particulars descriptive of the identity of the ship as may for the time being be required by the Board of Trade, and such certificate (*l*) shall be delivered to the registrar (*m*) before registry (*f*).

7.—(1.) Every British (*d*) ship (*e*) shall before registry (*f*) be marked permanently and conspicuously to the satisfaction of the Board of Trade as follows (*n*):—

- (a.) Her name (*o*) shall be marked on each of her bows, and her name (*o*) and the name of her port of registry (*p*) must be marked on her stern, on a dark ground in white or yellow letters, or on a light ground in black letters, such letters to be of a length not less than four inches, and of proportionate breadth ;
- (b.) Her official number (*q*) and the number denoting her registered tonnage (*i*) shall be cut in on her main beam ;
- (c.) A scale of feet denoting her draught of water shall be marked on each side of her stem and of her stern post in Roman capital letters or in figures, not less than six inches in length, the lower line of such letters or figures to coincide with the draught line denoted thereby, and those letters or figures must be marked by being cut in and painted white or yellow

(*d*) See note to § 1 (p. 8 (*a*)).

(*e*) Defined, § 742.

(*f*) § 11.

(*g*) Fees fixed by the Board of Trade, § 83, and Schedule III.; to be paid to Mercantile Marine Fund, § 676, 1 (*a*).

(*h*) § 724.

(*i*) Schedule II.

(*k*) To be on a form prescribed by the Commissioners of Customs, with

the assent of the Board of Trade; § 65, s. 1, and Schedule I. Part II.

(*l*) Penalties for forging, &c., § 66.

(*m*) § 4.

(*n*) This, being a liability, applies, though the ship is not registered; § 72.

(*o*) See § 47.

(*p*) § 13.

(*q*) On the register.

Marking of ship.
36 & 37
Vict. c. 85,
s. 3.

1854, ss.
21, 36.

on a dark ground, or in such other way as the Board of Trade approve;

(2.) The Board of Trade may exempt any class of ships (*r*) for all or any of the requirements of this section, and a fishing-boat entered in the fishing-boat register (*s*), and lettered and numbered in pursuance of the Fourth Part of this Act (*s*), need not have her name and port of registry marked under this section;

(3.) If the scale of feet showing the ship's draught of water is in any respect inaccurate, so as to be likely to mislead, the owner (*t*) of the ship shall be liable to a fine not exceeding one hundred pounds (*u*);

(4.) The marks required by this section shall be permanently continued, and no alteration shall be made therein, except in the event of any of the particulars thereby denoted being altered in the manner provided by this Act (*x*);

(5.) If an owner (*t*) or master (*r*) of a British ship (*y*) neglects to cause his ship to be marked as required by this section, or to keep her so marked, or if any person conceals, removes, alters, defaces, or obliterates, or suffers any person under his control to conceal, remove, alter, deface, or obliterate any of the said marks, except in the event aforesaid (*z*), or except for the purpose of escaping capture by an enemy, that owner (*a*), master (*r*), or person shall for each offence be liable to a fine not exceeding one hundred pounds (*u*), and on a certificate from a surveyor of ships (*b*), or Board of Trade inspector (*c*) under this Act, that a ship is insufficiently or inaccurately marked, the ship may be detained (*d*) until the insufficiency or inaccuracy has been remedied.

Applica-
tion for
registry.
1854, s. 35.

8. An application for registry of a ship (*r*) shall be made

- (*r*) Defined, § 742.
- (*a*) § 373.
- (*t*) Includes equitable owners; § 58; and see § 72.
- (*u*) How recovered, §§ 680-684; how applicable, §§ 699, 716.
- (*z*) Name, § 47; particulars of registry, § 48; port of registry,

- § 53.
- (*y*) See note to § 1 (p. 8 (*e*)).
- (*x*) § 7, s. 4.
- (*a*) Note to § 58.
- (*b*) § 724.
- (*c*) § 728.
- (*d*) § 692.

in the case of individuals by the person (*f*) requiring to be registered as owner, or by some one or more of the persons so requiring if more than one, or by his or their agent, and in the case of corporations by their agent, and the authority of the agent shall be testified by writing, if appointed by individuals, under the hands of the appointors, and, if appointed by a corporation, under the common seal of that corporation.

9. A person shall not be entitled to be registered as owner of a ship or of a share therein until he, or in the case of a corporation the person authorized by this Act to make declarations on behalf of the corporation (*g*), has made and signed a declaration (*h*) of ownership (*i*), referring to the ship as described in the certificate of the surveyor (*k*), and containing the following particulars:—

(i.) A statement of his qualification to own a British ship (*l*), or in the case of a corporation, of such circumstances of the constitution and business thereof as prove it to be qualified to own a British ship (*l*):

(ii.) A statement of the time when and the place where the ship was built, or, if the ship is foreign built, and the time and place of building unknown, a statement that she is foreign built, and that the declarant does not know the time or place of her building; and, in addition thereto, in the case of a foreign ship, a statement of her foreign name, or, in the case of a ship condemned, a statement of the time, place and court at and by which she was condemned:

(iii.) A statement of the name (*m*) of the master (*m*):

(iv.) A statement of the number of shares (*n*) in the ship of which he or the corporation, as the case may be, is entitled to be registered as owner:

(*f*) If incapable, see § 55.

(*g*) § 62, s. 2.

(*h*) As to declarations generally, see §§ 60, 61, 66, 67.

(*i*) To be in a form prescribed by the Commissioners of Customs with the consent of the Board of Trade,

§ 65, s. 1, and Schedule I. Part II.; penalties for forging, &c., § 66.

(*k*) § 6.

(*l*) § 1.

(*m*) Defined, § 742.

(*n*) § 5.

- (v.) A declaration that, to the best of his knowledge and belief, no unqualified (*o*) person (*p*) or body of persons is entitled as owner to any legal or beneficial (*q*) interest in the ship or any share therein.

Evidence
on first
registry
1854, ss.
40, 41.

10.—(1.) On the first registry (*r*) of a ship (*s*) the following evidence shall be produced in addition to the declaration of ownership (*t*);—

(a.) In the case of a British-built ship, a builder's certificate (*u*), that is to say, a certificate signed by the builder of the ship (*x*), and containing a true account of the proper denomination and of the tonnage of the ship, as estimated by him, and of the time when and the place where she was built, and of the name of the person (*p*) (if any) on whose account the ship was built (*y*), and if there has been any sale, the bill of sale (*z*) under which the ship, or a share therein, has become vested in the applicant for registry :

(b.) In the case of a foreign-built ship, the same evidence as in the case of a British-built ship (*a*), unless the declarant who makes the declaration of ownership (*t*) declares that the time and place of her building are unknown to him, or that the builder's certificate cannot be procured, in which case there shall be required only the bill of sale (*z*) under which the ship, or a share therein, became vested in the applicant for registry :

(c.) In the case of a ship (*s*) condemned by any competent court, an official copy of the condemnation.

(2.) The builder shall grant the certificate required by this section, and such person as the Commissioners of Customs recognize as carrying on the business of the

(*o*) § 1.

(*p*) Includes corporations; Int. Act, 1889, § 19.

(*q*) § 58.

(*r*) § 11.

(*s*) Defined, § 742.

(*t*) § 9.

(*u*) Penalty for forging, &c., § 66.

(*x*) Sub-s. 2.

(*y*) The delivery of a builder's

certificate of an unfinished ship to a banker against indebtedness, the banker's name being inserted as the name of the person for whom the ship is built, constitutes a good equitable mortgage, though before registration; *ex parte Hodgkin* (1875), L. R. 20, Eq. 746.

(*z*) § 24.

(*a*) Sub-s. (*a*).

builder of a ship, shall be included, for the purposes of this section, in the expression "builder of the ship."

(3.) If the person granting a builder's certificate under this section wilfully makes a false statement in that certificate he shall for each offence be liable to a fine not exceeding one hundred pounds (*b*).

11. As soon as the requirements of this Act preliminary to registry (*c*) have been complied with the registrar (*d*) shall enter in the register book (*d*) the following particulars respecting the ship:—

- (*a*.) the name (*e*) of the ship (*f*) and the name of the port (*f*) to which she belongs :
- (*b*.) the details comprised in the surveyor's certificate (*g*):
- (*c*.) the particulars respecting her origin stated in the declaration of ownership (*h*): and
- (*d*.) the name (*f*) and description of her registered owner or owners (*d*), and if there are more owners than one, the proportions in which they are interested in her (*d*).

Entry of particulars in register book.
1854, s. 42.
35 & 36
Vict. c. 73,
s. 13.

12. On the registry of a ship the registrar shall retain in his possession the following documents; namely, the surveyor's certificate (*g*), the builder's certificate (*i*), any bill of sale (*k*) of the ship previously made, the copy of the condemnation (if any), and all declarations of ownership (*h*).

Documents to be retained by registrar.
1854, s. 61.

13. The port (*f*) at which a British ship (*l*) is registered for the time being shall be deemed her port of registry and the port to which she belongs (*m*).

Port of registry.
1854, s. 33.

(*b*) How recovered, §§ 680-684; how applicable, § 716.

(*c*) See note to § 4.

(*d*) § 5.

(*e*) Slight variations in the name are immaterial. Cf. *Bell v. Bank of London* (1858), 3 H. & N. 730. As to alterations, see §§ 47, 48.

(*f*) Defined, § 742.

(*g*) § 6.

(*h*) § 9.

(*i*) § 10.

(*k*) §§ 10, 24.

(*l*) See note to § 1.

(*m*) This is important for pilotage. See § 625, s. 5.

*Certificate
of Regis-
try.*

Certificate of Registry.

*Certificate
of regis-
try.*
1855, s. 44.

14. On completion of the registry of a ship (*o*), the registrar shall grant a certificate of registry (*p*) comprising the particulars respecting her entered in the register book (*q*), with the name (*r*) of her master (*r*).

*Custody of
certificate.*
1854, ss.
50, 51.

15.—(1.) The certificate of registry (*p*) shall be used only for the lawful navigation of the ship (*s*), and shall not be subject to detention by reason of any title (*t*), lien (*u*), charge, or interest whatever had or claimed by any owner, mortgagee, or other person to, on, or in the ship (*x*).

(2.) If any person, whether interested in the ship or not, refuses on request to deliver up the certificate of registry (*p*) when in his possession or under his control to the person (*y*) entitled to the custody thereof for the purposes of the lawful navigation of the ship (*s*), or to any registrar, officer of customs, or other person entitled by law to require such delivery, any justice by warrant under his hand and seal, or any court capable of taking cognizance of the matter, may summon the person so refusing to appear before such justice or court, and to be examined touching such refusal, and unless it is proved to the satisfaction of such justice or court that there was reasonable cause for such refusal (*z*), the offender shall be liable

(*o*) The Court may go behind this to examine the validity of the title. *Orr v. Dickinson* (1859), Johnson, at p. 13.

(*p*) The form is to be prescribed by the Commissioners of Customs, with consent of Board of Trade. See § 65; Schedule I. Part II. Penalties for forging, &c., § 66.

(*q*) § 5.

(*r*) Defined, § 742.

(*s*) See this section discussed in *Wiley v. Crawford* (1861), 1 B. & S. 253.

(*t*) Therefore a sale or pledge of it is invalid (S. C.).

(*u*) Nor is there a lien on it by the master for wages or disbursements, or shipbroker for advances. *Gibson v. Ingo* (1847), 6 Hare, 112.

(*x*) A person interested may sue

for it (see *Wiley v. Crawford*; *Gibson v. Ingo*, *supra*), though some person is claiming under a contract to restrain him from navigating the ship. *The Celtic King* (1894), P. 175.

(*y*) Ordinarily, the master. *Arkle v. Henzell* (1853), 8 E. & B. 828.

(*z*) That the person refusing was master without notice of dismissal, and that no reason was assigned for the demand, held reasonable cause in *Arkle v. Henzell*, *r. s.*; otherwise if he had notice of dismissal, or reason was given. So alleged wrongful dismissal is not reasonable cause for detention by the master. *St. Olaf* (1876), 3 Asp. M. C. 268. *Seamble*, that reasonable doubt as to title would be such cause. *The Frances* (1820), 2 Dods, 420.

to a fine not exceeding one hundred pounds (*a*), but if it is shown to such justice or court that the certificate is lost, the person summoned shall be discharged, and the justice or court shall certify that the certificate of registry is lost (*b*).

(3.) If the person so refusing is proved to have absconded so that the warrant of a justice or process of a court cannot be served on him, or if he persists in not delivering up the certificate, the justice or court shall certify the fact, and the same proceedings may then be taken as in the case of a certificate mislaid, lost, or destroyed, or as near thereto as circumstances permit (*b*).

16. If the master (*c*) or owner (*d*) of a ship (*c*) uses or attempts to use for her navigation a certificate of registry (*e*) not legally granted in respect of the ship, he shall, in respect of each offence, be guilty of a misdemeanor (*f*), and the ship shall be subject to forfeiture under this Act (*g*).

Penalty for use of improper certificate. 1854, s. 52.

17. The registrar of the port of registry (*h*) of a ship may, with the approval of the Commissioners of Customs, and on the delivery up to him of the certificate of registry (*e*) of a ship, grant a new certificate in lieu thereof.

Power to grant new certificate. 1851, s. 47.

18.—(1.) In the event of the certificate of registry (*e*) of a ship (*a*) being mislaid, lost, or destroyed, the registrar of her port of registry (*h*) shall grant a new certificate of registry in lieu of her original certificate.

Provision for loss of certificate. 1854, ss. 48, 49.

(2.) If the port (*c*) (having a British registrar (*i*) or consular officer (*j*)) at which the ship is at the time of the event, or first arrives after the event—

(*a*) is not in the United Kingdom, where the ship is registered in the United Kingdom; or,

(*b*) is not in the British possession (*k*) in which the ship is registered; or,

(*a*) How recovered, §§ 680-684; how applicable, §§ 699, 716.

(*b*) See § 18.

(*c*) Defined, § 742.

(*d*) Note to § 58.

(*e*) See note (*p*), p. 18.

(*f*) Procedure, §§ 680-684.

(*g*) § 76.

(*h*) § 13.

(*i*) § 4.

(*j*) Int. Act, 1889, § 12, s. 20.

(*k*) Ibid. § 18, s. 2.

(c.) where the ship is registered at a port of registry (*l*) established by Order in Council under this Act (*m*), is not that port;

then the master (*n*) of the ship, or some other person having knowledge of the facts of the case, shall make a declaration (*o*) stating the facts of the case, and the names and descriptions of the registered owners (*p*) of such ship to the best of the declarant's knowledge and belief, and the registrar or consular officer, as the case may be, shall thereupon grant a provisional certificate (*q*), containing a statement of the circumstances under which it is granted.

(3.) The provisional certificate (*r*) shall within ten days after the first subsequent arrival of the ship at her port (*n*) of discharge in the United Kingdom, where she is registered in the United Kingdom, or in the British possession (*s*) in which she is registered, or where she is registered at a port of registry established by Order in Council under this Act (*t*) at that port, be delivered up to the registrar of her port of registry (*u*), and the registrar shall thereupon grant the new certificate of registry; and if the master (*n*) without reasonable cause fails (*x*) to deliver up the provisional certificate within the ten days aforesaid, he shall be liable to a fine not exceeding fifty pounds (*y*).

Endorsement of change of master on certificate. 1854, s. 46. 35 & 36 Vict. c. 73, s. 4.

19. Where the master (*n*) of a registered British ship (*z*) is changed, each of the following persons, that is to say—

(a.) if the change is made in consequence of the sentence of a naval court (*a*), the presiding officer of that court; and

(b.) if the change is made in consequence of the removal of the master by a court under Part VI. of this Act (*b*), the proper officer of that court; and

(c.) if the change occurs from any other cause, the

(*l*) § 13.

(*m*) § 88.

(*n*) Defined, § 742.

(*o*) §§ 60, 61; forgery, &c., §§ 66, 67.

(*p*) § 5.

(*q*) Form, see § 65, and Schedule I. Part II. Forging, &c., §§ 66, 67.

(*r*) Sub-s. 2.

(*s*) Int. Act, 1889, § 18, s. 2.

(*t*) § 88.

(*u*) § 13.

(*z*) Includes refusal, § 742.

(*y*) Procedure, §§ 680-684; and how applicable, §§ 699, 716.

(*a*) Notes to §§ 1, 2.

(*b*) § 480.

(*b*) § 472.

registrar (*c*), or if there is none the British consular officer (*d*), at the port (*d*) where the change occurs, shall endorse (*e*) and sign on the certificate of registry (*f*) a memorandum of the change, and shall forthwith report the change to the Registrar-General of Shipping and Seamen (*g*); and any officer of customs at any port (*d*) in Her Majesty's dominions may refuse to admit any person to do any act there as master (*d*) of a British ship (*h*) unless his name is inserted in or endorsed on her certificate of registry (*f*) as her last appointed master (*i*).

20.—(1.) Whenever a change occurs in the registered ownership of a ship (*k*), the change of ownership shall be endorsed (*e*) on her certificate of registry (*f*) either by the registrar of the ship's port of registry (*l*), or by the registrar of any port (*d*) at which the ship arrives who has been advised of the change by the registrar of the ship's port of registry (*l*).

Endorsement of change of ownership on certificate. 1854, s. 45.

(2.) The master (*d*) shall, for the purpose of such endorsement by the registrar of the ship's port of registry (*l*), deliver the certificate of registry (*f*) to the registrar, forthwith after the change if the change occurs when the ship is at her port of registry (*l*), and if it occurs during her absence from that port and the endorsement under this section is not made before her return then upon her first return to that port.

(3.) The registrar of any port (*d*), not being the ship's port of registry (*l*), who is required to make an endorsement under this section (*m*) may for that purpose require the master (*d*) of the ship to deliver to him the ship's certificate of registry (*f*), so that the ship be not thereby detained, and the master shall deliver the same accordingly.

(4.) If the master (*d*) fails (*n*) to deliver to the registrar

(*c*) § 4.

(*d*) Defined, § 742.

(*e*) Forging endorsement, § 66.

(*f*) § 14.

(*g*) § 251.

(*h*) Notes to §§ 1, 2.

(*i*) This does not appear to cover the case of the master's death at sea,

and the mate arriving as acting master; he can probably, however, get the registrar at the port of arrival to make the endorsement.

(*k*) Cf. § 24, *et seq.*

(*l*) § 13.

(*m*) Sub-s. 1.

(*n*) Includes refusal, § 742.

the certificate of registry as required by this section (*o*) he shall, for each offence, be liable to a fine not exceeding one hundred pounds (*p*).

Delivery
up of cer-
tificate of
ship lost
or ceasing
to be
British-
owned.
1854, s. 53.

21.—(1.) In the event of a registered ship (*q*) being either actually or constructively (*r*) lost, taken by the enemy, burnt, or broken up, or ceasing by reason of a transfer to persons not qualified to be owners of British ships (*s*), or otherwise (*t*), to be a British ship (*q*), every owner (*u*) of the ship or any share in the ship shall, immediately on obtaining knowledge of the event, if no notice thereof has already been given to the registrar, give notice thereof to the registrar at her port of registry (*x*), and that registrar shall make an entry thereof in the register book.

(2.) In any such case, except where the ship's certificate of registry (*y*) is lost or destroyed (*z*), the master (*a*) of the ship shall, if the event occurs in port immediately, but if it occurs elsewhere then within ten days after his arrival in port, deliver the certificate to the registrar, or, if there is none, to the British consular officer (*b*) there, and the registrar, if he is not himself the registrar of her port of registry (*x*), or the British consular officer (*b*), shall forthwith forward the certificate delivered to him to the registrar of her port of registry (*x*).

(3.) If any such owner (*u*) or master (*a*) fails (*c*), without reasonable cause, to comply with this section, he shall for each offence be liable to a fine not exceeding one hundred pounds (*p*).

Provi-
sional cer-
tificate for

22.—(1.) If at a port (*a*) not within Her Majesty's dominions and not being a port of registry established by Order

(*o*) Sub-s. 3.

(*p*) Procedure, §§ 680-684; fine how applicable, §§ 699, 716.

(*q*) Notes to §§ 1, 2.

(*r*) A ship is constructively lost if she cannot be repaired except at an expense that a prudent uninsured owner would not incur.

(*s*) § 1.

(*t*) Cf. § 48, s. 2. Cf. *The European Co. v. P. & O. Co.* (1866), 2 Asp. M.

C. O. S. 351, where a vessel employed for four years as a coal-hulk was held not to be a "ship."

(*u*) Note to § 53.

(*x*) § 13.

(*y*) § 14.

(*z*) § 18.

(*a*) Defined, § 742.

(*b*) Int. Act, 1889, § 12, s. 20.

(*c*) Includes refusal, § 742.

in Council under this Act (*d*), a ship becomes the property of persons qualified to own a British ship (*e*), the British consular officer (*f*) there may grant to her master, on his application, a provisional certificate (*g*), stating :—

(*a*.) the name of the ship ;

(*b*.) the time and place of her purchase, and the names of her purchasers ;

(*c*.) the name (*h*) of her master (*h*) ; and

(*d*.) the best particulars respecting her tonnage, build, and description which he is able to obtain ;
and shall forward a copy of the certificate at the first convenient opportunity to the Registrar-General of Shipping and Seamen (*i*).

(2.) Such a provisional certificate shall have the effect of a certificate of registry (*k*) until the expiration of six months from its date, or until the ship's arrival at a port (*h*) where there is a registrar (*l*) (whichever first happens), and on either of those events happening shall cease to have effect.

23. Where it appears to the Commissioners of Customs, or to the governor (*m*) of a British possession (*n*), that by reason of special circumstances it would be desirable that permission should be granted to any British ship (*o*) to pass, without being previously registered, from any port (*h*) in Her Majesty's dominions to any other port (*h*) within Her Majesty's dominions, the Commissioners or the governor (*m*) may grant a pass accordingly, and that pass shall, for the time and within the limits therein mentioned, have the same effect as a certificate of registry (*k*).

Transfers and Transmissions (p).

24.—(1.) A registered (*q*) ship or a share therein (when

(*d*) § 88.

(*e*) § 1.

(*f*) Int. Act, 1889, § 12, s. 20.

(*g*) Form, see § 65, and Schedule I. Part II. ; forging, &c., § 66.

(*h*) Defined, § 742.

(*i*) § 251.

(*k*) § 2.

(*l*) § 4.

(*m*) Int. Act, 1889, § 18, s. 6.

(*n*) Int. Act, 1889, § 18, s. 2.

(*o*) Note to § 1.

(*p*) § 27.

(*q*) A vessel which, though not a ship needing registration, as defined in §§ 2, 3, 742, is registered need not be transferred by bill of sale. Thus in *European Co. v. P. & O. Co.* (1866), 2 Asp. M. C. O. S. 351, where a ship had been employed for four years as a coal-hulk, and in *Benyon v. Cresswell* (1848), 12 Q. B.

ships becoming British-owned abroad.
1854, s. 54.
35 & 36
Vict. c. 73,
s. 4.

Temporary passes in lieu of certificates of registry.
1854, s. 98.

Transfers and Transmissions.

Transfer of ships or shares.
1854, s. 55.

disposed of to a person qualified to own a British ship (*r*) shall (*s*) be transferred by bill of sale (*t*).

(2.) The bill of sale shall contain such description of the ship as is contained in the surveyor's certificate (*u*), or some other description sufficient to identify the ship to the satisfaction of the registrar (*x*), and shall be in the form

899, where a ship under fifteen tons had been registered, transfer by bill of sale was held unnecessary. It follows that there are craft, such as the dumb barge in *Gapp v. Bond* (1887), 19 Q. B. D. 200, and the ship built in England for a foreigner in *Union Bank v. Lenanton* (1878), 3 C. P. D. 243, which do not need registration, and need not be transferred by bill of sale under this Act, as not being ships needing registration, and yet being "vessels," are exempted from the Bills of Sale Acts. But in *Coombes v. Mansfield* (1855), 3 Drew., 193, Kindersley, V.C., treated registration as conclusive that the vessel registered was a ship.

(*r*) § 1. When disposed of by any one unqualified, see procedure in §§ 28, 29.

(*s*) Under the Acts before 1852 the courts declined to recognize any interest in a ship unless acquired in the manner prescribed by those Acts. See *Follet v. Delany* (1848), 2 De G. & Sm. 235; *Hughes v. Morris* (1852), 2 De G. M. & G. 849; *McCalmont v. Rankin* (1852), *ibid.* p. 403; *Duncan v. Tindall* (1853), 13 C. B. 258; *Coombes v. Mansfield* (1855), 3 Drew., 193. Under the Act of 1854 Page Wood, V.C., in *Orr v. Dickinson* (1859), Johnson, 1, while going behind the register on finding that a bill of sale was invalid, thought that the registration of a valid bill of sale would be conclusive, and in *Liverpool Bank v. Turner* (1860), 2 De G. F. & J. 502, Lord Campbell, L.C., declined to recognize a mortgage not made in the statutory form. In consequence of this, § 8 of the Act of 1862 was passed, reproduced as § 57 of this Act; and under it, in *Batthyany v. Bouch* (1881), 50 L. J. Q. B. 421, Grove and Lindley, JJ., enforced an unregistered agreement to

sell at the suit of the owner. It follows, therefore, that a sale not in the form of a bill of sale will be recognized by the courts, and enforced against the registered vendor. But the registrar is not bound to register, except in cases of transmission, any transfer not made by bill of sale (cf. *Chasteauneuf v. Chapeyron* (1882), 7 App. C. 127, where the transfer was under a sale in Mauritius, partly judicial, partly by licitation). Therefore an equitable transferee is liable to be defeated by transfer by the registered owner to a *bona fide* transferee without notice, under § 56. Cf. *The Horlock* (1877), 2 P. D. 243, where the transferor had got on the register by fraud, but the *bona fide* transferee was protected. As against a registered owner who has transferred an equitable interest, or as against his trustee in bankruptcy, the equitable transferee will be protected. *Stapleton v. Haymen* (1864), 2 H. & C. 918. And the courts would compel, even before the Act of 1862, a person registered by his mistake or fraud as owner to transfer to the true owner and account for profits. *Holderness v. Lamport* (1861), 29 Beav. 129; cf. *Orr v. Dickinson* (1859), Johnson, 1. An unregistered transferee by bill of sale will be entitled to the benefits of ownership. Cf. *The Spirit of the Ocean* (1865), 34 L. J. Ad. 74, where such a person was allowed to limit his liability in collision.

(*t*) Form (see sub-s. 2) prescribed in Schedule I, Part I, may be changed by Commissioners of Customs, with consent of Board of Trade; § 65, s. 1. Penalties for forging, &c., §§ 66, 67.

(*u*) § 6.

(*x*) Thus variation of name from the register is immaterial, if identity established. Cf. *Bell v. Bank of*

marked A in the first part of the First Schedule to this Act, or as near thereto as circumstances permit, and shall be executed by the transferor in the presence of, and be attested by (y), a witness or witnesses.

25. Where a registered (z) ship or a share therein is transferred, the transferee shall not be entitled to be registered as owner thereof until he, or, in the case of a corporation, the person authorized by this Act to make declarations on behalf of the corporation (a), has made and signed a declaration (b) (in this Act called a declaration of transfer (c)) referring to the ship, and containing—

- (a.) (d) a statement of the qualification (e) of the transferee to own a British ship (f), or if the transferee is a corporation, of such circumstances of the constitution and business thereof as prove it to be qualified to own a British ship (e); and
- (b.) (d) a declaration (b) that, to the best of his knowledge and belief, no unqualified person (e) or body of persons is entitled as owner to any legal or beneficial (g) interest in the ship or any share therein.

26.—(1.) Every bill of sale (h) for the transfer of a registered ship (z) or of a share therein, when duly executed (h), shall be produced to the registrar of her port of registry (i), with the declaration of transfer (k), and the registrar shall thereupon enter in the register book (l) the name (m) of the transferee as owner of the ship or share, and shall endorse on the bill of sale (h) the fact of that entry having been made, with the day and hour thereof.

London (1858), 3 H. & N. 730, where the *City of Brussels* was transferred as the *City of Bruzelles*.

- (y) § 694.
- (z) See note (q), p. 23.
- (a) § 61, s. 2.
- (b) §§ 60, 61.
- (c) Form, see § 65, and Schedule I. Part II.; forging, &c., §§ 66, 67.
- (d) The registrar may dispense

with declarations or evidence; cf. § 60.

- (e) § 1.
- (f) Note to § 1.
- (g) § 57.
- (h) § 24.
- (i) § 13.
- (k) § 25.
- (l) § 5.
- (m) Defined, § 742.

Declaration of transfer. 1854, s. 56.

Registry of transfer. 1854, s. 57.

(2.) Bills of sale (*n*) of a ship (*o*) or of a share therein shall be entered in the register book (*p*) in the order of their production to the registrar (*q*).

Trans-
mission of
property
in ship on
death,
bank-
ruptcy,
marriage,
&c.
1854, ss.
58-60.

27.—(1.) Where the property in a registered ship (*r*) or share therein is transmitted to a person qualified (*s*) to own a British ship on the marriage, death, or bankruptcy (*o*) of any registered owner, or by any lawful means (*t*) other than by a transfer (*n*) under this Act:—

(a.) That person shall authenticate the transmission by making and signing a declaration (in this Act called a declaration of transmission (*u*)) identifying the ship and containing the several statements herein-before required to be contained in a declaration of transfer (*x*), or as near thereto as circumstances admit, and also a statement of the manner in which and the person to whom the property has been transmitted:

(b.) (*y*) If the transmission takes place by virtue of marriage (*z*), the declaration shall be accompanied by a copy of the register of the marriage or other legal evidence of the celebration thereof, and shall declare the identity of the female owner.

(c.) (*y*) If the transmission is consequent on bankruptcy (*o*), the declaration of transmission shall be accompanied by such evidence as is for the time receivable in courts of justice as proof of the title of persons claiming under a bankruptcy (*a*).

(*n*) § 24.

(*o*) Defined, § 742.

(*p*) § 5.

(*q*) There appears to be no provision for priority of owners in order of time of entry, similar to that for mortgages in § 33.

(*r*) See note (*q*), p. 23.

(*s*) § 1.

(*t*) These words were held in *Chasteauneuf v. Capeyron* (1882), 7 App. C. at p. 134, only to apply to transmissions *ejusdem generis*, i.e. by operation of law unconnected with any direct act of the party to whom the property is transmitted. Thus a sale by licitation in Mauritius did not come within the words, as per-

sonal intervention was necessary.

(*u*) Form, see § 65, and Schedule I. Part II.; forging, &c., §§ 66, 67.

(*x*) § 25.

(*y*) See note (*d*), p. 25.

(*z*) Under the Married Woman's Property Act, 1882, marriage no longer vests a woman's property in her husband. This section appears obsolete, except, possibly, as to some marriages of British subjects abroad.

(*a*) The certificate by the Board of Trade of appointment of trustee is by Bank. Act, 1883, § 54, s. 4, an assignment of bankrupt's property to his trustee, and by § 138 is conclusive evidence of his appointment.

(d.) (c) If the transmission is consequent on death, the declaration of transmission shall be accompanied by the instrument of representation (d), or an official extract therefrom.

(2.) The registrar, on receipt of the declaration of transmission so accompanied (c), shall enter in the register book (e) the name (d) of the person entitled under the transmission as owner of the ship (d) or share the property in which has been transmitted, and, where there is more than one person, shall enter the names of all those persons, but those persons, however numerous, shall, for the purpose of the provision of this Act with respect to the number of persons entitled to be registered as owners (e), be considered as one person.

28.—(1.) Where the property (f) in a registered (g) ship or share therein is transmitted on marriage, death, bankruptcy, or otherwise (h) to a person not qualified to own a British ship (i), then—

if the ship is registered in England or Ireland, the High Court (k); or

if the ship is registered in Scotland, the Court of Session; or

if the ship is registered in any British possession (l), the court having the principal jurisdiction in that possession; or

if the ship is registered in a port of registry established by Order in Council under this Act (m), the British court having the principal civil jurisdiction there; may on application by or on behalf of the unqualified person (i), order a sale (n) of the property (f) so transmitted,

Order for sale on transmission to unqualified person. 1854, ss. 62, 64. 24 & 25 Vict. c. 10, s. 12. 30 & 31 Vict. c. 114, s. 35.

(c) See note (d), p. 25.

(d) Defined, § 742.

(e) § 5.

(f) This appears to include the interest of a mortgagee transmitted under § 37; cf. § 25 (b.).

(g) See note (q) to § 24.

(h) § 27, s. 1, and notes.

(i) § 1.

(k) Int. Act, 1889, § 13, s. 3. The Rules of the Supreme Court (Merchant Shipping), 1894, exclude this from

the matters assigned to the Probate, Divorce, and Admiralty Division. The application may therefore be made in any division of the High Court; see Rules in Appendix.

(l) Int. Act, 1889, § 13, s. 2.

(m) § 88. At present only Shanghai is established.

(n) The court has power to order a sale generally, or to a particular person. See as to procedure, *The Santon* (1878), 26 W. R. 810.

and direct that the proceeds of the sale, after deducting the expenses thereof, be paid to the person entitled under such transmission or otherwise as the court direct (*o*).

(2.) The court may require any evidence in support of the application they think requisite, and may make the order on any terms and conditions they think just, or may refuse to make the order, and generally may act in the case as the justice of the case requires.

(3.) Every such application for sale must be made within four weeks after the occurrence of the event (*p*) on which the transmission has taken place, or within such further time (not exceeding in the whole one year from the date of the occurrence) as the court allow (*q*).

(4.) If such an application is not made within the time aforesaid, or if the court refuse an order for sale, the ship (*r*) or share transmitted shall thereupon be subject to forfeiture under this Act (*s*).

Transfer
of ship or
sale by
order of
court.
1854, s. 63.

29. Where any court (*r*), whether under the preceding sections of this Act (*t*) or otherwise (*u*), order the sale of any ship or share therein, the order of the court shall contain a declaration vesting in some person named by the court the right to transfer that ship or share, and that person shall thereupon be entitled to transfer the ship or share in the same manner and to the same extent as if he were the registered owner thereof (*x*); and every registrar shall obey the requisition of the person so named in respect of any such transfer to the same extent as if such person were the registered owner (*y*).

Power of
court to
prohibit
transfer.
1854, s. 65.

30. Each of the following courts, namely:—

(*o*) This enables the court to recognize beneficial interests not transmitted, and pay their owners; see discussion *per* Lord Hatherley, in *Liverpool Bank v. Turner* (1860), 1 J. & H. 159, before the Act of 1862.

(*p*) Marriage, death, bankruptcy, &c., § 27.

(*q*) See note (*n*), p. 27.

(*r*) Defined, § 742.

(*s*) Procedure for forfeiture, § 76. In *The Millicent*, W. N., August 8, 1891, p. 162, a lady who had pur-

chased one sixty-fourth share of a British steamer, married a Swede, and died. There being no application for sale, the Crown obtained forfeiture. A *bona fide* purchaser for value after forfeiture will be affected by it. *The Annandale* (1877), 2 P. D. 218.

(*t*) § 28.

(*u*) Cf. § 76, and general powers of Admiralty Court over ship arrested.

(*x*) § 56.

(*y*) Cf. §§ 26, 39.

(a.) in England or Ireland the High Court (z);
 (b.) in Scotland the Court of Session;
 (c.) in any British possession (a) the court having the principal civil jurisdiction in that possession; and
 (d.) in the case of a port of registry established by Order in Council under this Act (b), the British court having the principal civil jurisdiction there,
 may, if the court think fit (without prejudice to the exercise of any other power of the court), on the application (c) of any interested person make an order prohibiting for a time specified any dealing with a ship or any share therein (d), and the court may make the order on any terms or conditions they think just (e), or may refuse to make the order, or may discharge the order when made, with or without costs, and generally may act in the case as the justice of the case requires; and every registrar, without being made a party to the proceeding, shall on being served with the order or an official copy thereof obey the same.

Mortgages (f).

Mortgages.

31.—(1.) A registered ship (g) or a share therein may be

(z) See note (k), p. 27.

(a) Int. Act, 1889, § 18, s. 2.

(b) See note (m), p. 27.

(c) May, under Rules of the Supreme Court (Merchant Shipping), 1894, rule 2 (see Appendix), be made "by summons or otherwise, and either *ex parte* or upon service of notice on any person as the court may direct."

(d) Such orders made by the Admiralty Division in *Nicholas v. Dracachis* (1875), 1 P. D. 72, and *The Horlock* (1877), 2 P. D. at p. 250; by the Court of Chancery in *Armstrong v. Armstrong*, cited in *Coombes v. Mansfield*, 3 Drew., at p. 201. This section does not interfere with the general jurisdiction of the court to protect property during litigation. *Orr v. Dickinson* (1859), Johnson, 1.

(e) In *The Isis* (1868), 3 Asp. M.C. O. S. 52, on an application by a purchaser in default with instalments, an order was made on his bringing arrears into court.

(f) A mortgage of a ship effects a transfer of all the mortgagor's interest in the thing mortgaged, not absolutely, but by way of security (§ 34), and it is therefore subject to redemption. A second mortgagee will obtain the mortgagor's equity of redemption, and, though he cannot take possession against a first mortgagee, he can against all other persons not having equities prior in date to his own estate or charge, and can enforce such right by obtaining the appointment of a receiver. *Per* Lindley, J., in *Keith v. Burrows* (1876), 1 C. P. D. at p. 736; and *Liverpool Marine Co. v. Wilson* (1872), L. R. 7 Ch. at p. 511.

The court will, between the parties, go behind a transaction appearing on the register to be an absolute transfer, and, if it is a mortgage, will treat it as such. *Cf. The Innisfallen* (1866), L. R. 1 A. & E. at p. 76; *Ward v. Beck* (1863), 13 C. B. N. S. 668; and *Gardner v. Cazenove* (1856), 1 H. &

Mortgage of ship or share.
 1854, ss. 66, 67.

made a security for a loan or other valuable consideration, and the instrument creating the security (in this Act called a mortgage (*h*)) shall be in the form (*i*) marked B in the first part of the First Schedule to this Act, or as near thereto as circumstances permit, and on the production (*k*) of such instrument the registrar of the ship's port of registry (*l*) shall record it in the register book (*m*).

(2.) Mortgages shall be recorded by the registrar in the order in time in which they are produced to him for that purpose, and the registrar shall by memorandum under

N. at p. 438. This follows from the general principles of courts of equity, and from the express recognition of beneficial interests in § 57 of the Act. So also the court will, between the parties, go behind a registered mortgage in the statutory form to see what were the real terms of the mortgage. *The Cathcart* (1867), L. R. 1 A. & E. 314. But in the absence of evidence to the contrary, a statutory mortgage on the register is an ordinary mortgage, with the ordinary common law incidents, except in so far as varied by the provisions of the Act.

Under the Act of 1854 it was held that the courts could not recognize unregistered mortgages not in the statutory form. *Liverpool Bank v. Turner* (1860), 2 De G. F. & J. 502. This was remedied by § 3 of the Act of 1862 (Act, § 57; cf. note to § 24), and an unregistered mortgage will be enforced against all persons except registered transferees or mortgagees. Per Lindley, J., in *Keith v. Burrows* (1876), 1 C. P. D. at p. 732; *Stapleton v. Haymen* (1864), 2 H. & C. 918; *Black v. Williams* (1895), 1 Ch. 408.

Under a mortgage of a ship there pass—(1.) *Freight* not yet payable at the time when the mortgagee takes possession (*Brown v. Tanner*, L. R. 3 Ch. 597), or not then paid (*per Lord Cairns*, in *Keith v. Burrows* (1877), 2 App. C. at p. 646). Until the mortgagee takes possession he has no claim on the freight, even after notice to the person liable. *Keith v. Burrows*,

1 C. P. D. p. 745. After possession he takes priority of a mortgagee of freight only. The Merchant Shipping Act does not deal with charges on freight or their priorities, or the rights of the mortgagee with regard to freight, which are governed by ordinary principles. See *Liverpool Marine Co. v. Wilson* (1872), L. R. 7 Ch. 511; and *Scrutton on Charters*, § 147, s. 7.

(2.) *Cargo* does not pass unless expressly assigned. *Langton v. Horton* (1842), 5 Beav. 9.

(3.) *Appurtenances* on board at the date of the mortgage, or put on board after such date, in substitution for similar articles on board at such date. *Coltman v. Chamberlain* (1890), 25 Q. B. D. 328.

"The High Court of Admiralty has jurisdiction over any claim in respect of any mortgage duly registered, whether the ship or the proceeds thereof be under arrest of the said court or not" (24 Vict. c. 10, s. 11).

(*g*) See note (*q*) to § 24.

(*h*) See note (*f*), p. 29.

(*i*) May be altered by the Commissioners of Customs with the consent of the Board of Trade; § 65, s. 1. Penalty for forging, &c., § 66.

(*k*) There is not, as there is in § 26 as to bills of sale, an obligation to produce it to the registrar, whether registration is desired or not. See *per Lindley, J.*, in *Keith v. Burrows* (1876), 1 C. P. D. at p. 732.

(*l*) § 13.

(*m*) § 5.

his hand notify on each mortgage that it has been recorded by him, stating the day and hour of that record (*n*).

32. Where a registered mortgage is discharged, the registrar shall, on the production of the mortgage deed, with a receipt for the mortgage money endorsed (*o*) thereon (*p*), duly signed and attested (*q*), make an entry in the register book to the effect that the mortgage has been discharged (*r*), and on that entry being made the estate (if any) which passed to the mortgagee shall vest in the person in whom (having regard to intervening acts and circumstances, if any,) it would have vested if the mortgage had not been made (*s*).

Entry of discharge of mortgage. 1854, s. 68.

33. If there are more mortgages than one registered in respect of the same ship or share, the mortgagees shall, notwithstanding any express, implied, or constructive notice, be entitled in priority, one over the other, according to the date at which each mortgage is recorded in the register book (*t*), and not according to the date of each mortgage itself (*u*).

Priority of mortgages. 1854, s. 69.

(*n*) Priority depends on date of record; see § 33.

(*o*) Forgery, &c., §§ 66, 67.

(*p*) Power to dispense with evidence, § 67.

(*q*) § 694. As to stamp duty, see § 721.

(*r*) The registrar has no power to erase the entry of a mortgage. Cf. *Chasteauneuf v. Capeyron* (1882), 7 App. C. at p. 135, "It would be a violation of the principle of the registration Acts to erase any entries which appear on the face of the register." When a discharge has been duly registered, the mortgage is at an end, and cannot be revived by an entry that the discharge has been made in error, or as against a new mortgagee on the register, by a subsequent unregistered assignment, whatever may be the equities between mortgagor and mortgagee. *Bell v. Blyth* (1868), L. R. 4 Ch. 136. But where the discharge of a mortgage had been entered on the register by mistake, the Court of Admiralty, apparently acting under what is now § 57 of this Act, declared a pur-

chaser from the mortgagee the owner, and entitled to be registered, the representatives of the mortgagor not appearing. *The Rose* (1873), L. R. 4, A. & E. 6. *Semble*, that if the mortgagor had transferred his interest to a *bona fide* purchaser, who had registered, the purchaser from the mortgagor could have had no relief. Cf. *The Horlock* (1877), 2 P. D. 243.

(*s*) This would not be the transmission of the interest of a mortgagee under § 38, within the definition in *Chasteauneuf v. Capeyron* (1882), 7 App. C. at p. 134; see note to § 27. It is assumed that no fresh entry of ownership would be necessary on the register, other than the entry of discharge of the mortgage, the representative of the mortgagor having become registered either under § 26 by his bill of sale, or under § 27 by his transmission.

(*t*) § 31, s. 2. The only exception is that mortgages effected under a certificate of mortgage date from the date of the entry of such certificate in the register; § 43.

(*u*) This clause prevents the

Mort-
gagee not
treated as
owner.
1854, s. 70.

34. Except as far as may be necessary for making a mortgaged ship or share available as a security for the mortgage debt, the mortgagee shall not by reason of the mortgage be deemed the owner of the ship or share, nor shall the mortgagor be deemed to have ceased to be owner thereof (x).

court from recognizing certain beneficial interests acquired by notice, which it would otherwise not recognize under § 57; and makes priority as between registered incumbrancers depend on date of registration, and not on the date of the mortgage. Cf. *Black v. Williams* (1895), 1 Ch. 408. Priority as between a second mortgage and an unregistered further charge, as on freight, depends on their actual dates. *Per* Lindley, J., in *Keith v. Burrows* (1876), 1 C. P. D. at p. 733; and *Liverpool Co. v. Wilson*, L. R. 7 Ch. 507. An unregistered mortgage is liable to be defeated by subsequent sales, transfers, or mortgages registered before it.

(x) This section leaves the mortgagor with the powers of an ordinary owner except that he must not impair the mortgagee's security. It was inserted to protect the mortgagee against liabilities, such as for necessities supplied to the ship to which, as legal owner in possession, he might otherwise be liable. *Per* Lindley, J., in *Keith v. Burrows* (1876) 1 C. P. D. at p. 732; *The Troubadour* (1866), L. R. 1 A. & E. 302; and cf. § 57. The mortgagor in possession may therefore bind the ship and the mortgagee by any charter that does not impair the mortgagee's security. *Keith v. Burrows* (1877), 2 App. C. 636; *Collins v. Lamport* (1864), 34 L. J. Ch. 196; *The Fanchon* (1880), 5 P. D. 173; *De Mattos v. Gibson* (1858), 4 De G. & J. 276; *The Maxima* (1878), 39 L. T. 112; *The Keroula* (1886), 11 P. D. 92. And the burden of proving that a charter is of such a nature is on the mortgagee. *The Fanchon, v. s.* Such a charter was held, in *The Celtic King* (1894) P. at p. 188, not to bind the mortgagee, it being for a term of five years, with clauses obliging the shipowner to engage in joint speculations in frozen meat. And

where the mortgagor has contracted to insure the ship, the mortgagor can prevent her going to sea uninsured. *Laming v. Seater* (1889), 16 Sc. Sess. C. 4th ser. 828. The mortgagee cannot object to a charter on the ground that its performance will involve the ship's leaving the jurisdiction, and so render the exercise of his rights more difficult (*The Fanchon, v. s.*); nor to an assignment of freight by the mortgagor as gross freight, the expenses of the voyage not being paid out of it (*The Edmond* (1860), Lush. 57); nor to a charter making freight payable to a third party (*Cory v. Stewart* (1886), 2 T. L. R. 508). So the mortgagor, while in possession, can create a necessary lien for repairs to the ship, which will take precedence of the mortgagee. *Williams v. Allsup* (1861), 10 C. B. N. S. 417.

The interest of the mortgagee out of possession is sufficient to prevent the creditors of the mortgagor from seizing and selling the ship, even though the mortgage is unregistered. *Dickinson v. Kitchen* (1858), 8 E. & B. 789; and § 57 sub.

He cannot take possession, unless either a sum is due to him under the mortgage, or the mortgagor is so acting as to impair the security. *The Blanche* (1887), 58 L. T. 592; *The Cathcart* (1867), L. R. 1 A. & E. at p. 329. Nor can he, while out of possession, maintain an action of restraint. *The Innisfallen* (1866), L. R. 1 A. & E. 72; *The Keroula* (1886), 11 P. D. 92.

On taking possession, he has the power of sale, under § 34, which will defeat existing charters. Cf. *The Celtic King* (1894), P. 175. Or he may use the ship to render it available for his debt, provided that the employment is such as a prudent man would make of his property. Of such prudent employment or of

35. Every registered mortgagee shall have power absolutely to dispose of the ship or share in respect of which he is registered, and to give effectual receipts for the purchase money; but where there are more persons than one registered as mortgagees of the same ship or share, a subsequent mortgagee shall not, except under the order of a court of competent jurisdiction, sell the ship or share, without the concurrence of every prior mortgagee (y).

Mortgagees to have power of sale. 1854, s. 71.

36. A registered mortgage of a ship or share shall not be affected by an act of bankruptcy committed by the mortgagor after the date of the record of the mortgage (z), notwithstanding that the mortgagor at the commencement of his bankruptcy had the ship or share in his possession, order, or disposition, or was reputed owner thereof, and the mortgage shall be preferred to any right, claim, or interest therein of the other creditors

Mortgage not affected by bankruptcy. 1854, s. 72.

a judicious sale, the mortgagor must bear the risk. The mortgagee will be liable for foolish sales, or for imprudent use. *European Co v. Royal Mail Co.* (1858), 4 K. & J. 676; *Murriott v. Anchor Co.* (1861), 3 De G. F. & J. 177. But using the ship, the mortgagee will be bound by such existing contracts as do not impair his security. *Collins v. Lamport* (1864), 34 L. J. Ch. 196. The court will not order specific performance of such a charter, but will restrain the owner from employing the ship except under the charter. *De Mattos v. Gibson* (1858), 4 De G. & J. 276; see *The Celtic King*, v. s.; and *Whitwood v. Hardman* (1891), 2 Ch. at p. 431.

(y) This power of sale is expressly conferred by statute, as the mortgagee, unless in possession, would have no power of sale, unless it were expressly conferred on him, and the statutory form of mortgage (Schedule I.) does not confer such a power. *Per* Lindley, J., in *Keith v. Burrows* (1876), 1 C. P. D. at p. 733. The power only applies to registered mortgages. It does not arise until there is a default made under the mortgage. *Per* Dr. Lushington, in *The Cathcart* (1867), v. s., and note to § 34. A sale under this power does

not make the mortgagee selling a trustee for persons entitled, as is expressly provided in ordinary mortgages, which would compel him at any time to render an account to the second mortgagee; but if the receipt of a surplus over his mortgage debt is proved against him, there is a constructive trust as to the surplus for the persons entitled, the difference being in the periods of limitation; *Banner v. Berridge* (1881), 18 Ch. D. 254, 261, 269.

A sale under this power to a bona fide vendor will be valid, though the mortgagee is on the register by fraud or mistake. *The Horlock* (1877), 2 P. D. 243.

The effect of registration of a mortgage is—

- (1.) To give a power of sale; § 35.
- (2.) To take the ship mortgaged out of the reputed ownership clause of the Bankruptcy Act; § 36.
- (3.) To give the mortgagee priority against all mortgages or transfers then unregistered (§ 33), except as provided in § 43.
- (4.) To give the mortgagee security against further transfers or mortgages by the registered owner.

(z) § 33.

of the bankrupt or any trustee or assignee on their behalf(a).

Transfer
of mort-
gages.

1854, s. 73.

37. A registered mortgage of a ship or share may be transferred to any person, and the instrument effecting the transfer shall be in the form marked C in the first part of the First Schedule to this Act(b), or as near thereto as circumstances permit, and on the production of such instrument the registrar(c) shall record it by entering in the register book(d) the name of the transferee as mortgagee of the ship or share, and shall by memorandum under his hand notify on the instrument of transfer that it has been recorded by him, stating the day and hour of the record(e).

Trans-
mission of
interest in
mortgage
by death,
bank-
ruptcy,
marriage,
&c.
1854, ss.
74, 75.

38(s).—(1.) Where the interest of a mortgagee in a ship or share is transmitted on marriage(f), death, or bankruptcy, or by any lawful means, other than by a transfer under this Act(f), the transmission shall be authenticated by a declaration(f) of the person to whom the interest is transmitted, containing a statement of the manner in which and the person to whom the property has been transmitted, and shall be accompanied by the like evidence as is by this Act required in case of a corresponding transmission of the ownership of a ship or share(f).

(2.) The registrar on the receipt of the declaration(f), and the production of the evidence aforesaid(f), shall enter the name of the person entitled under the transmission in the register book as mortgagee of the ship or share(g).

(a) This only applies to registered mortgages, and its effect is to take ships under registered mortgages out of the reputed ownership clauses of Bankruptcy Act. *Per* Lindley, J., in *Keith v. Burrows* (1876), 1 C.P.D. 732.

(b) May be altered by Commissioners of Customs, with consent of Board of Trade; § 65, s. 1. Penalties for forging, &c., §§ 66, 67; the transfer being an endorsement under § 66 (see form in Schedule I. Part I.), though the clause of the Act does not require the transfer to be endorsed on the original mortgage.

(c) § 4.

(d) § 5.

(e) Neither the mortgage (§ 31), the discharge (§ 32), nor the transfer (§ 36), need be produced to the registrar, as a transfer must under § 26 (see *per* Lindley, J., *Keith v. Burrows* (1876), 1 C.P.D. 732); but they must be produced, if registration is desired; and as to the advantages of registration, see note to § 36.

(f) See the notes to corresponding words in § 27.

(g) For effects of registration, see note to § 35.

Certificates of Mortgage and Sale.

39. A registered owner, if desirous of disposing by way of mortgage or sale of the ship (*h*) or share in respect of which he is registered at any place out of the country in which the port of registry (*i*) of the ship is situate, may apply to the registrar (*k*), and the registrar shall thereupon enable him to do so by granting a certificate of mortgage (*l*) or a certificate of sale (*m*).

Certificates of Mortgage and Sale.

Powers of mortgage and sale may be conferred by certificate.

1854, s. 76.

40. Before a certificate of mortgage (*l*) or sale (*m*) is granted, the applicant shall state to the registrar (*k*), and the registrar shall enter in the register book (*n*), the following particulars; (that is to say (*o*),)

Requisites for certificates of mortgage and sale.

1854, s. 77.

(i.) the name of the person (*p*) by whom the power mentioned in the certificate is to be exercised, and in the case of a mortgage (*l*) the maximum amount of charge to be created, if it is intended to fix any such maximum, and in the case of a sale (*m*) the minimum price at which a sale is to be made (*q*), if it is intended to fix any such minimum:

(ii.) the place where the power is to be exercised, or if no place is specified, a declaration that it may be exercised anywhere, subject to the provisions of this Act:

(iii.) the limit of time within which the power may be exercised.

41. A certificate of mortgage (*l*) or sale (*m*) shall not be granted so as to authorize any mortgage or sale to be made—

Restrictions on certificates of mortgage and sale.

1854, s. 78.

(*h*) Defined, § 742.

(*i*) § 13.

(*k*) § 4.

(*l*) § 43.

(*m*) § 44.

(*n*) § 5.

(*o*) The registrar may also enter the date of the issue of the certificate (§ 43, *v. s.*); and of its cancellation, with any unsatisfied mortgages thereon (§§ 43, s. 8; 44, s. 12).

(*p*) Includes corporations; Int. Act, § 889, § 19.

(*q*) When the certificate and register book named a minimum price, but the agent sold at a less price, entering the minimum price in the bill of sale, which was therefore registered, the court treated the transaction as void, going behind the register. *Orr v. Dickinson* (1889), 1 Johnson, 1. *Semble*, they would not if the registered transferee had sold to a *bona fide* purchaser. *The Horlock* (1877), 2 P. D. 243.

If the port of registry (*r*) of the ship is situate in the United Kingdom, at any place within the United Kingdom; or

If the port of registry (*r*) is situate within a British possession (*s*), at any place within the same British possession (*s*); or

If the port of registry is established by Order in Council under this Act (*t*), at that port, or within such adjoining area as is specified in the order; or

By any person not named in the certificate.

Contents
of certi-
ficates of
mortgage
and sale.
1854, s. 79.

42. A certificate of mortgage (*u*) and a certificate of sale (*x*) shall contain a statement of the several particulars by this Act directed to be entered in the register book on the application for the certificate (*y*), and in addition thereto an enumeration of any registered mortgages (*z*) or certificates of mortgage or sale affecting the ship or share in respect of which the certificate is given (*a*).

Rules as
to certi-
ficates of
mortgage.
1854, s. 80.

43. The following rules shall be observed as to certificates of mortgage (*b*).

- (1.) The power shall be exercised in conformity with the directions contained in the certificate (*y*):
- (2.) Every mortgage made thereunder shall be registered by the endorsement (*c*) of a record thereof on the certificate by a registrar (*d*) or British consular officer (*e*):
- (3.) A mortgage made in good faith thereunder shall not be impeached by reason of the person by whom the power was given dying before the making of the mortgage:
- (4.) Whenever the certificate contains a specification of the place at which, and a limit of time not exceeding twelve months within which, the power is to be

(*r*) § 13.

(*s*) Int. Act, 1889, § 18, s. 2.

(*t*) § 88.

(*u*) § 43.

(*x*) § 44.

(*y*) § 40.

(*z*) § 31.

(*a*) § 39.

(*b*) Form to be prescribed by Cus-

toms with consent of Board of Trade § 65, s. 1, and Schedule I. Part II Penalties for forging, &c., §§ 66, 67.

(*c*) Penalties for forging, &c., §§ 66, 67.

(*d*) § 4.

(*e*) Int. Act, 1889, § 12, s. 20.

exercised (*f*), a mortgage made in good faith to a mortgagee without notice shall not be impeached by reason of the bankruptcy of the person by whom the power was given :

- (5.) Every mortgage which is so registered as aforesaid (*g*) on the certificate shall have priority over all mortgages of the same ship or share created subsequently to the date of the entry of the certificate in the register book (*h*); and, if there are more mortgages than one so registered, the respective mortgagees claiming thereunder shall, notwithstanding any express, implied, or constructive notice, be entitled one before the other according to the date at which each mortgage is registered on the certificate, and not according to the date of the mortgage (*i*) :
- (6.) Subject to the foregoing rules, every mortgagee whose mortgage is registered on the certificate (*g*) shall have the same rights and powers and be subject to the same liabilities as he would have had and been subject to if his mortgage had been registered in the register book instead of on the certificate (*k*) :
- (7.) The discharge of any mortgage so registered on the certificate may be endorsed (*l*), on the certificate by any registrar (*m*) or British consular officer (*n*), on the production of such evidence as is by this Act required to be produced to the registrar on the entry of the discharge of a mortgage in the register book (*o*); and on that endorsement (*l*) being made, the interest, if any, which passed to the mortgagee shall vest in the same person or persons in whom it would (having regard to intervening acts and circumstances, if any,) have vested, if the mortgage had not been made (*o*) :

(*f*) § 40.

(*g*) Sub-s. 2.

(*h*) § 39. It appears from this that the registrar granting the certificate is to enter it in the register book, which is not expressly stated previously.

(*i*) Cf. § 33, and notes thereto.

(*k*) §§ 35-37, and notes.

(*l*) Penalties for forging, &c., §§ 66, 67.

(*m*) § 4.

(*n*) Int. Act, 1889, § 12, s. 20.

(*o*) § 32, and notes thereto.

- (8.) On the delivery of any certificate of mortgage (*p*) to the registrar by whom it was granted he shall, after recording in the register book, in such manner as to preserve its priority (*q*), any unsatisfied mortgage registered thereon (*r*), cancel the certificate, and enter the fact of the cancellation in the register book; and every certificate so cancelled shall be void to all intents.

Rules as
to certi-
ficates of
sale.
1854, s. 81.

44. The following rules shall be observed as to certificates of sale (*s*):—

- (1.) A certificate of sale shall not be granted except for the sale of an entire ship (*t*):
- (2.) The power shall be exercised in conformity with the directions contained in the certificate (*u*):
- (3.) A sale made in good faith thereunder to a purchaser for valuable consideration shall not be impeached by reason of the person by whom the power was given dying before the making of such sale:
- (4.) Whenever the certificate contains a specification of the place at which, and a limit of time not exceeding twelve months within which, the power is to be exercised (*u*), a sale made in good faith to a purchaser for valuable consideration without notice shall not be impeached by reason of the bankruptcy of the person by whom the power was given:
- (5.) A transfer made to a person qualified to be the owner of a British ship (*x*) shall be by a bill of sale in accordance with this Act (*y*):
- (6.) If the ship is sold to a person qualified to be the owner of a British ship (*x*) the ship shall be registered anew (*z*); but notice of all mortgages enumerated on the certificate of sale (*a*) shall be entered in the register book:
- (7.) Before registry anew (*z*) there shall be produced to

(*p*) See note (*h*), p. 37.

(*q*) § 33.

(*r*) Sub-s. 2.

(*s*) See note (*b*), p. 36.

(*t*) Defined, § 742.

(*u*) § 40.

(*x*) § 1.

(*y*) § 24.

(*z*) § 51, 52.

(*a*) § 42.

the registrar required to make the same the bill of sale by which the ship is transferred (*b*), the certificate of sale (*c*), and the certificate of registry of such ship (*d*):

(8.) The last-mentioned registrar (*e*) shall retain the certificates of sale (*c*) and registry (*d*), and after having endorsed (*f*) on both of those instruments an entry of the fact of a sale having taken place, shall forward them to the registrar of the port appearing thereon to be the former port of registry of the ship (*g*), and the last-mentioned registrar (*h*) shall thereupon make a memorandum of the sale in his register book (*i*), and the registry of the ship in that book shall be considered as closed, except as far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein (*k*):

(9.) On such registry anew (*c*) the description of the ship contained in her original certificate of registry may be transferred to the new register book, without her being re-surveyed (*l*), and the declaration to be made by the purchaser shall be the same as would be required to be made by an ordinary transferee (*m*):

(10.) If the ship is sold to a person (*n*) not qualified to be the owner of a British ship (*o*), the bill of sale by which the ship is transferred (*b*), the certificate of sale (*c*), and the certificate of registry (*d*) shall be produced to a registrar (*p*) or British consular officer (*q*), and that registrar or officer shall retain the certificates of sale (*c*) and registry (*d*), and, having endorsed (*f*) thereon the fact of that ship having been sold to a person not qualified to be the owner of a British

(*b*) § 24.

(*c*) § 39.

(*d*) § 14.

(*e*) Sub-a. 7.

(*f*) Penalties for forging, &c., §§ 66, 67.

(*g*) § 13.

(*h*) i.e. the registrar of the former port of registry.

(*i*) § 5.

(*k*) These will also be entered on

the register of the new port; see sub-a. 6. Apparently, discharges must be entered in both registers.

(*l*) § 6.

(*m*) § 25, and notes thereon.

(*n*) Includes corporations; Int. Act, 1889, § 19.

(*o*) § 1.

(*p*) § 4.

(*q*) Int. Act, 1889, § 12, s. 20.

ship (*r*), shall forward the certificates to the registrar of the port appearing on the certificate of registry to be the port of registry of that ship (*s*); and that registrar shall thereupon make a memorandum of the sale in his register book, and the registry of the ship in that book shall be considered as closed, except so far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein (*t*):

- (11.) If, on a sale being made to a person not qualified to be the owner of a British ship (*r*), default is made in the production of such certificates as are mentioned in the last rule (*u*), that person shall be considered by British law (*x*) as having acquired no title to or interest in the ship; and further, the person upon whose application the certificate of sale was granted (*y*), and the person exercising the power (*z*), shall each be liable to a fine not exceeding one hundred pounds (*a*):
- (12.) If no sale is made in conformity with the certificate of sale (*b*), that certificate shall be delivered to the registrar by whom the same was granted (*c*); and he shall thereupon cancel it and enter the fact of the cancellation in the register book; and every certificate so cancelled shall be void for all intents and purposes.

Power of
Commissioners of
Customs
in case of
loss of cer-
tificate of
mortgage
or sale.
1854, s. 82.

45. On proof at any time to the satisfaction of the Commissioners of Customs that a certificate of mortgage or sale (*c*) is lost or destroyed, or so obliterated as to be useless, and that the powers thereby given have never been exercised, or if they have been exercised, then on proof of the several matters and things that have been

(*r*) § 1.

(*a*) § 13.

(*t*) See note (*k*), p. 39.

(*u*) Certificates of sale and registry.

(*z*) The law of the place of sale might recognize the transaction, and this, under *Cammell v. Sewell* (1860), 5 H. & N. 728, would be sufficient by British law, without this provision.

(*y*) § 39.

(*z*) § 40, s. 1.

(*a*) How recovered, §§ 680-684; how applicable, §§ 699, 716.

(*b*) Where a sale was made not in conformity with the certificate, but the bill of sale was filled up in accordance with the certificate, and so registered, the court disregarded the registration, and set the bill of sale aside. *Orr v. Dickinson* (1859), Johnson, 1, at p. 14.

(*c*) § 39.

done thereunder, the registrar may, with the sanction of the Commissioners, as circumstances require, either issue a new certificate, or direct such entries to be made in the register books, or such other things to be done, as might have been made or done if the loss, destruction, or obliteration had not taken place.

46.—(1.) The registered owner of any ship (*d*) or share therein in respect of which a certificate of mortgage or sale has been granted (*e*), specifying the places where the power thereby given is to be exercised (*f*), may, by an instrument under his hand (*g*), authorize the registrar by whom the certificate was granted (*h*) to give notice to the registrar (*i*) or British consular officer (*k*) at every such place that the certificate is revoked.

Revoca-
tion of cer-
tificates of
mortgage
and sale
1854, s. 83.

(2.) Notice shall thereupon be given accordingly and shall be recorded by the registrar (*i*) or British consular officer (*k*) receiving it, and after it is recorded the certificate shall be deemed to be revoked and of no effect so far as respects any mortgage or sale to be thereafter made at that place.

(3.) The notice after it has been recorded shall be exhibited to every person applying for the purpose of effecting or obtaining a mortgage or transfer under the certificate.

(4.) A registrar (*i*) or British consular officer (*k*) on recording any such notice shall state to the registrar by whom the certificate was granted (*h*) whether any previous exercise of the power to which such certificate refers has taken place.

Name of Ship (d).

47.—(1.) (*l*) A ship (*d*) shall not be described by any

*Name of
Ship.*

Rules as
to name of

(*d*) Defined, § 742.

(*e*) § 39.

(*f*) § 40, s. 2.

(*g*) Called in Schedule I. Part II. the revocation of a certificate. Form to be prescribed under § 65, s. 1. Penalties for forging, &c., §§ 66, 67.

(*h*) § 39.

(*i*) § 4.

(*k*) Int. Act, 1889, § 12, s. 20.

(*l*) Some parts of this section, e.g. ss. 1, 2, 6, and 7, appear, by the operation of § 72, to apply to ships which, being unregistered, are not deemed to be British.

ship.

34 & 35

Vict. c.

110, s. 6.

36 & 37

Vict. c. 85,

s. 5.

name other than that by which she is for the time being registered (*m*).

(2.) A change shall not be made in the name of a ship without the previous written permission of the Board of Trade (*n*).

(3.) Application for that permission shall be in writing, and if the Board are of opinion that the application is reasonable they may entertain it, and thereupon require notice thereof to be published in such form and manner as they think fit.

(4.) On permission being granted to change the name, the ship's name shall forthwith be altered in the register book (*o*), in the ship's certificate of registry (*p*), and on her bows and stern (*q*).

(5.) If it is shown to the satisfaction of the Board of Trade that the name of any ship (*r*) has been changed without their permission they shall direct that her name be altered into that which she bore before the change, and the name shall be altered in the register book (*o*), in the ship's certificate of registry (*p*), and on her bows and stern accordingly (*q*).

(6.) Where a ship having once been registered has ceased to be so registered (*s*) no person (*t*) unless ignorant of the previous registry (proof whereof shall lie on him) shall apply to register (*u*), and no registrar shall knowingly register (*x*), the ship, except by the name by which she was previously registered, unless with the previous written permission of the Board of Trade.

(7.) Where a foreign ship, not having at any previous

(*m*) § 4.

(*n*) The case of *Bell v. Bank of London* (1858), 3 H. & N. 730, where the difference between the name in the bill of sale and in the registry was treated by the court as immaterial, was before the sections reproduced here, which may require the court to be stricter in the matter of names. *Semble*, that § 57, as to beneficial interests, would be available in case of varying names in documents.

(*o*) § 5.

(*p*) § 14.

(*q*) § 7, s. 1 (*a*).

(*r*) Defined, § 742.

(*s*) *Semble*, by ceasing to be a British ship, by transfer to a foreigner; and cf. 54. Sub-s. 7 does not apply to this case.

(*t*) Includes corporations; Int. Act, 1889, §§ 2, 19.

(*u*) § 8.

(*x*) § 11.

time been registered as a British ship (*y*), becomes a British ship (*y*), no person shall apply to register (*z*), and no registrar shall knowingly register (*a*), the ship, except by the name which she bore as a foreign ship immediately before becoming a British ship (*y*), unless with the previous written permission of the Board of Trade.

(8.) If any person (*b*) acts, or suffers any person under his control to act, in contravention of this section, or omits to do, or suffers any person under his control to omit to do, anything required by this section, he shall for each offence be liable to a fine not exceeding one hundred pounds (*c*), and (except (*d*) in the case of an application being made under the section with respect to a foreign ship which not having at any previous time been registered as a British ship has become a British ship (*e*)) the ship may be detained until this section is complied with (*f*).

Registry of Alterations, Registry anew, and Transfer of Registry of Alterations, &c.

48.—(1.) When a registered ship (*g*) is so altered as not to correspond with the particulars relating to her tonnage or description contained in the register book (*h*), then, if the alteration is made at any port (*i*) having a registrar (*k*), that registrar, or, if it is made elsewhere, the registrar of the first port (*i*) having a registrar (*k*) at which the ship arrives after the alteration, shall, on application being made to him, and on receipt of a certificate from the proper surveyor (*l*) stating the particulars of the alteration, either cause the alteration to be registered (*m*), or direct that the ship be registered anew (*n*).

(*g*) § 1, note.

(*z*) § 8.

(*a*) § 11.

(*b*) Includes corporations; Int. Act, 1889, §§ 2, 19.

(*c*) Procedure, §§ 680-684; fine, how applicable, §§ 699, 716.

(*d*) This exception is because the Act of 1873 did not enforce the clause by detention.

(*e*) Sub-s. 7.

(*f*) § 692, the powers given by which are rather wider than the

powers in the clauses supposed to be reproduced.

(*g*) This does not apply to registered vessels which need not have been registered. See *Benyon v. Cresswell* (1848), 12 Q. B. 899, and note to § 3.

(*h*) § 11.

(*i*) Defined, § 742.

(*k*) § 4.

(*l*) § 6.

(*m*) § 49.

(*n*) § 50.

Registry of alterations.
1854, ss. 84, 85, 87.

(2.) On failure (*o*) to register anew a ship (*p*) or to register an alteration of a ship so altered as aforesaid (*q*), that ship shall be deemed not duly registered, and shall not be recognised as a British ship (*r*).

Regulations for registry of alteration. 1854, ss. 84, 85.

49.—(1.) For the purpose of the registry of an alteration in a ship, the ship's certificate of registry (*s*) shall be produced to the registrar, and the registrar shall, in his discretion either retain the certificate of registry (*s*) and grant a new certificate (*u*) of registry (*s*) containing a description of the ship as altered, or endorse (*u*) and sign on the existing certificate a memorandum of the alteration.

(2.) The particulars of the alteration so made, and the fact of the new certificate having been granted, or endorsement having been made, shall be entered by the registrar of the ship's port of registry (*x*) in his register book; and for that purpose the registrar to whom the application for the registry of the alteration has been made (*y*) (if he is not the registrar of the ship's port of registry (*x*)), shall forthwith report to the last-mentioned registrar the particulars and facts as aforesaid, accompanied, where a new certificate of registry has been granted, by the old certificate of registry (*s*).

Provisional certificate and endorsement where ship is to be registered anew. 1854, ss. 85, 86.

50.—(1.) Where any registrar, not being the registrar of the ship's port of registry (*s*), on an application as to an alteration in a ship directs the ship to be registered anew (*y*), he shall either grant a provisional certificate (*u*), describing the ship as altered, or provisionally endorse (*u*) the particulars of the alteration on the existing certificate.

(2.) Every such provisional certificate, or certificate provisionally endorsed, shall, within ten days after the first subsequent arrival of the ship at her port (*z*) of discharge in the United Kingdom, if she is registered in the

(*o*) Includes refusal; § 742.

(*p*) § 50.

(*q*) § 49.

(*r*) Consequences; § 72; cf. § 2.

(*s*) § 14.

(*u*) Penalties for forging, &c.,

§§ 66, 67.

(*x*) § 13.

(*y*) § 48.

(*z*) Defined, § 712.

United Kingdom, or, if she is registered in a British possession (*a*), at her port (*b*) of discharge in that British possession (*a*), or, if she is registered at a port of registry established by Order in Council under this Act (*c*), at that port, be delivered up to the registrar thereof (*d*), and that registrar shall cause the ship to be registered anew.

(3.) The registrar granting a provisional certificate under this section, or provisionally endorsing a certificate (*e*), shall add to the certificate or endorsement a statement that the same is made provisionally, and shall send a report of the particulars of the case to the registrar of the ship's port of registry (*f*), containing a similar statement as the certificate or endorsement.

51. Where the ownership of any ship is changed, the registrar of the port at which the ship is registered (*f*) may, on the application of the owners (*g*) of the ship, register the ship anew, although registration anew is not required under this Act. Registry anew on change of ownership. 1854, ss. 81, 85, 88.

52.—(1.) Where a ship (*b*) is to be registered anew, the registrar (*d*) shall proceed as in the case of first registry (*i*), and on the delivery up to him of the existing certificate of registry (*h*), and on the other requisites to registry (*k*), or in the case of a change of ownership such of them as he thinks material, being duly complied with, shall make such registry anew, and grant a certificate thereof (*l*). Procedure for registry anew. 1854, ss. 81, 85, 88.

(2.) When a ship is registered anew, her former register shall be considered as closed, except so far as relates to any unsatisfied mortgage or existing certificates of sale or mortgage entered thereon (*m*), but the names of all persons appearing on the former register to be interested in the ship as owners or mortgagees shall be entered on the new

- (a) Int. Act, 1889, § 18, s. 2.
- (b) Defined, § 742.
- (c) § 88.
- (d) § 4.
- (e) Sub-s. 1.
- (f) § 13.
- (g) Note to § 58.

- (h) § 14.
- (i) §§ 4-13.
- (k) § 10.
- (l) Power to dispense with evidence, § 60.
- (m) §§ 39, 40.

register, and the registry anew shall not in any way affect the rights of any of those persons (*n*).

Transfer
of registry.
1854, ss.
89-91.
18 & 19
Vict. c. 91,
s. 12.

53.—(1.) The registry of any ship may be transferred from one port to another on the application to the registrar of the existing port of registry (*o*) of the ship made by declaration (*p*) in writing of all persons appearing on the register to be interested therein as owners or mortgagees, but that transfer shall not in any way affect the rights of those persons or any of them, and those rights shall in all respects continue in the same manner as if no such transfer had been effected.

(2.) On any such application the registrar shall transmit notice thereof to the registrar of the intended port of registry (*o*) with a copy of all particulars relating to the ship, and the names of all persons appearing on the register to be interested therein as owners or mortgagees.

(3.) The ship's certificate of registry (*q*) shall be delivered up to the registrar either of the existing or intended port of registry (*o*), and, if delivered up to the former, shall be transmitted to the registrar of the intended port of registry (*o*).

(4.) On the receipt of the above documents the registrar of the intended port of registry (*o*) shall enter in his register book (*r*) all the particulars and names so transmitted as aforesaid, and grant a fresh certificate of registry (*q*), and thenceforth such ship shall be considered as registered at the new port of registry (*o*), and the name of the ship's new port of registry (*o*) shall be submitted for the name of her former port of registry (*o*) on the ship's stern (*s*).

Restrictions on

54. Where a ship has ceased to be registered as a British

(*n*) The working of this clause is obscure; *e.g.* A appears on the old register as owner, and B as mortgagee; A sells to C, who, as part of the price, pays off B, and requires the vessel to be registered anew, under § 51. Will A and B appear on the new register, and, if so, how? There is no restriction in the clause to per-

sons whose interests are not in fact terminated by the transaction causing the new register.

(*o*) § 13.

(*p*) As to declarations, see §§ 60, 61, 67.

(*q*) § 14.

(*r*) § 5.

(*s*) § 7, s. 1 (*a*).

ship (*u*) by reason of having been wrecked or abandoned, or for any reason other than capture by the enemy or transfer to a person not qualified to own a British ship (*x*), the ship shall not be re-registered until she has, at the expense of the applicant for registration, been surveyed by a surveyor of ships (*y*) and certified by him to be seaworthy (*z*).

re-regis-
tration of
abandoned
ships.
36 & 37
Vict. c. 85,
s. 6

Incapacitated Persons.

55.—(1.) Where by reason of infancy, lunacy, or any other cause any person (*a*) interested in any ship, or any share therein, is incapable of making any declaration (*b*) or doing anything required or permitted by this Act to be made or done in connection with the registry of the ship or share, the guardian or committee, if any, of that person, or, if there is none, any person appointed on application made on behalf of the incapable person, or of any other person interested, by any court or judge having jurisdiction in respect of the property of incapable persons, may make such declaration (*c*), or a declaration as nearly corresponding thereto as circumstances permit, and do such act or thing in the name and on behalf of the incapable person; and all acts done by the substitute shall be as effectual as if done by the person for whom he is substituted (*d*).

Provision
for cases
of infancy
or other
incapa-
city.
1854, s. 99.
18 & 19
Vict. c. 91,
s. 2.

(2.) The Trustee Act, 1850, and the Acts amending the same (*e*), shall, so far as regards the court exercising jurisdiction in lunacy in Ireland, apply to shares in ships registered under this Act as if they were stock as defined by that Act.

Trusts and Equitable Rights.

56 (*f*). No notice of any trust, express, implied, or constructive, shall be entered in the register book or be

*Trusts and
Equitable
Rights.*

- (*u*) Note to § 1.
- (*x*) § 1.
- (*y*) § 724.
- (*z*) Cf. § 457, and notes.
- (*a*) Includes corporations; Int. Act, 1889, § 19.
- (*b*) And see § 60.
- (*c*) §§ 60, 61, 67.

- (*d*) This does not allow guardians of infants to sell or mortgage ships, but only to execute the necessary formalities of registration, &c. *Michael v. Fripp* (1868), L.R. 7 Eq. 95.
- (*e*) 18 & 19 Vict. c. 91, s. 10. See 56 & 57 Vict. c. 53, ss. 33 (6), 51 Sch.
- (*f*) This section must be read in

Notice of
trusts not
received.
1854, s. 43.

receivable by the registrar, and, subject to any rights and powers appearing by the register book to be vested in any other person, the registered owner of a ship or of a share therein shall have power absolutely to dispose in manner in this Act provided (g) of the ship or share, and to give effectual receipts for any money paid or advanced by way of consideration (h).

Equities
not ex-
cluded by
Act.
1862, s. 3.

57. The expression "beneficial interest," where used in this Part of this Act, includes interests arising under contract and other equitable interests; and the intention of this Act is, that without prejudice to the provisions of this Act for preventing notice of trusts from being entered in the register book or received by the registrar (i), and without prejudice to the powers of disposition and of giving receipts conferred by this Act on registered owners and mortgagees (k), and without prejudice to the provisions of this Act relating to the exclusion of unqualified persons from the ownership of British ships (l), interests arising under contract or other equitable interests may be enforced by or against owners and mortgagees of ships in respect of their interest therein in the same manner as in respect of any other personal property (m).

conjunction with § 57, which reproduces § 3 of the Act of 1862, passed in consequence of the view of the Act taken by Lord Hatherley and the Lords Justices in *Liverpool Bank v. Turner* (1860), 2 De G. F. & J. 502; cf. *Black v. Williams* (1895), 1 Ch. 408.

(g) § 24, by bill of sale.

(h) A similar clause as to registered mortgages is § 35. Thus a *bona fide* transferee from a registered owner or mortgagee has a good title against all the world, though his predecessor was registered by fraud. Cf. *The Horlock* (1877), L. R. 2 P. D. 243.

(i) § 56.

(k) §§ 35, 56.

(l) §§ 1, 71.

(m) This section slightly widens the wording of § 3 of the Act of 1862, though not more than is justified by the decision in *Bathfany v. Bouch*

(1881), 50 L. J. Q. B. 421. The new section allows "interests arising under contracts or other equitable interests" (instead of, as formerly, "equities" only), to be enforced "by or against" owners, &c. (instead of, as formerly, "against" owners only). For operation of this section, see notes to § 30. As between a trustee and his representatives on the one side, and a *cestui que* trust or his representatives on the other, or as between persons in similar equitable relations, the courts will enforce such equities, provided that—

(1.) The registrar is not required to enter them on the register (§ 56);

(2.) *Bona fide* transferees from a registered owner or mortgagee will not be injured (§§ 35, 56);

(3.) Unqualified persons must not, in fact, take benefit from British ships (§§ 1, 25, a, 1, &c.).

Liability of Beneficial Owner (n).

58. Where any person is beneficially interested (o), other-
 wise than by way of mortgage (p), in any ship or share in
 a ship registered in the name of some other person as
 owner, the person so interested shall, as well as the regis-
 tered owner, be subject to all pecuniary penalties imposed
 by this or any other Act on the owners of ships or shares
 therein, so nevertheless that proceedings may be taken
 for the enforcement of any such penalties against both or
 either of the aforesaid parties, with or without joining the
 other of them (n).

Liability
 of owners,
 1854, s.
 100.

Managing Owner (q).

59.—(1.) The name and address of the managing Ship's
 managing.

(n) There is no definition of "owner" in the Act, and this clause enables the penal provisions of the Act to be applied to beneficial owners other than mortgagees, who may have the real interest in the ship, while the legal or registered owner may be merely a bare trustee. Apart from this, the tendency of the decisions is to construe the word "owner," when appearing in any part of the Act, so as to include a person who, though not in law or on the register as "the owner," has yet a real and substantial interest in the subject-matter of the clause, and to exclude a person who, though in law or on the register "the owner," has no substantial interest in the particular subject-matter. Thus in *Hughes v. Sutherland* (1881), 7 Q. B. D. 160, decided under the section corresponding to § 111 of this Act, which imposes a penalty on a person other than the owner, who engages a seaman without a licence from the Board of Trade, a person whose interest in the ship was that he had a *bona fide* contract for the purchase of one sixty-fourth share from a person who at the time of the contract had himself only a contract for the purchase of the ship, was held an owner within the section; and it was said that a charterer by demise would be in the same position. In *Meikle-veid v. West* (1876), 1 Q. B. D. 428,

decided under the section correspond-
 ing to § 143 of this Act, which en-
 titles a seaman's relatives to recover
 the amount of an allotment note from
 the "owner," the registered owner
 who had demised his ship by charter,
 and had nothing to do with engaging
 her crew, was held not an owner
 within the meaning of the section.
 These two cases illustrate the prin-
 ciple of construction to be applied.
 "Owner" will include "partowner."

(o) § 57, and notes to § 30.

(p) A mortgagee is protected from
 the liabilities of an owner; see § 31.

(q) The term "managing owner"
 is a commercial, not a legal one. He
 is ordinarily an agent appointed by
 some or all of the other owners to do
 what is necessary to enable the ship
 to prosecute her voyage and earn
 freight. *Barker v. Highley* (1863),
 15 C. B. N. S. 27, 34; *Thomas v.*
Lewis (1878), 4 Ex. D. 18, 23. But
 the fact that a man's name is entered
 on the register as managing owner
 does not bind those of his co-owners
 who have, in fact, given him no
 authority to manage. "He binds
 those whose agent he is, he binds no
 one beside. . . . Shipowners are not
 necessarily partners. An owner's
 liability or non-liability for neces-
 saries supplied to a ship depends on
 the question whether the person who
 gave the order had his authority to
 give it. The register is no doubt

owner or
manager
to be re-
gistered.
39 & 40
Vict. c. 80,
s. 36.

owner for the time being of every ship (*s*) registered at a port (*s*) in the United Kingdom shall be registered at the custom house of that port.

(2.) Where there is not a managing owner there shall be so registered the name of the ship's husband or other person to whom the management of the ship is entrusted by or on behalf of the owner; and any person whose name is so registered shall, for the purposes of this Act, be under the same obligations, and subject to the same liabilities, as if he were the managing owner.

(3.) If default is made in complying with this section the owner (*t*) shall be liable, or if there are more owners than one each owner shall be liable in proportion to his interest in the ship, to a fine not exceeding in the whole one hundred pounds each time the ship leaves any port (*s*) in the United Kingdom (*u*).

Declarations, Inspection of Register, and Fees.

*Declara-
tions, In-
spection of
Register,
and Fees.*

Power of
registrars
to dispense
with de-
clarations
and other
evidence.
1854, s. 97.

60. When, under this Part of this Act, any person is required to make a declaration on behalf of himself or of any corporation, or any evidence is required to be produced to the registrar, and it is shown to the satisfaction of the registrar that from any reasonable cause that person is unable to make the declaration, or that the evidence cannot be produced, the registrar may, with the approval of the Commissioners of Customs, and on the production of such other evidence, and subject to such terms as they may think fit, dispense with the declaration or evidence.

Mode of
making

61 (*x*).—(1.) Declarations required by this Part of this

evidence of ownership of the vessel, and the registered owner, until the contrary is shown, may be presumed to be the employer of those who have the custody of her, and who are engaged in her navigation." Cf. *Hibbs v. Ross* (1866), 1 Q. B. 534. "But a part owner, whether registered or not, has no power to bind the other owners without their assent. The question in each case is one of fact, whether he has had such authority committed to him, or, if this is

not in fact the case, whether he has been allowed to hold himself out as armed with such apparent authority. Per Bowen, J., in *Frazer v. Cuthbertson* (1880), 6 Q. B. D. at pp. 97-99. See Scrutton on Charters, article 16 *a*, and *The Huntsman* (1894), P. 214.

(*e*) Defined, § 742.

(*t*) Note to § 58.

(*u*) Procedure, §§ 680-684; fine how applicable, §§ 699, 716.

(*x*) This clause in this form is new, and collects a number of provisions

Act shall be made before a registrar of British ships (*y*), or a justice of the peace, or a commissioner for oaths (*z*), or a British consular officer (*a*).

(2.) Declarations required by this Part of this Act may be made on behalf of a corporation by the secretary or any other officer of the corporation authorized by them for the purpose (*b*).

62. All fees authorized to be taken under this Part of this Act, shall, except where otherwise in this Act provided (*c*), if taken in any part of the United Kingdom, be applied in payment of the general expenses of carrying into effect this Part of this Act, or otherwise as the Treasury may direct; if taken in a British possession (*d*), be disposed of in such way as the Executive Government of the possession direct; and if taken at any port of registry established by Order in Council under this Act (*e*), be disposed of as Her Majesty in Council directs (*f*).

Returns, Evidence, and Forms.

63 (*g*).—(1.) Every registrar (*y*) in the United Kingdom shall at the expiration of every month, and every other registrar (*y*) at such times as may be fixed by the Registrar-General of Shipping and Seamen (*h*), transmit to him a full return, in such form as the said Registrar-General may direct, of all registries (*i*), transfers (*k*), transmissions (*l*), mortgages (*m*), and other dealings with ships which have been registered by or communicated to him in his character of registrar, and of the names of the persons

together. In some cases it varies the oldest Acts; e.g. under § 39 of 1854 any public officer of a corporation might declare; under this clause the officer, unless the secretary, must be specially authorized for the purpose.

(*y*) § 4.

(*z*) 54 & 55 Vict. c. 50. (Commissioners for Oaths Act, 1891).

(*a*) § 742; and Int. Act, 1889, § 12, s. 20.

(*b*) See note (*z*), p. 50.

(*c*) Cf. § 676, s. 1 (*a*). Certain fees to be paid to Mercantile Marine Fund.

(*d*) Int. Act, 1889, § 18, s. 2.

(*e*) § 83.

(*f*) § 738.

(*g*) Cf. § 256.

(*h*) § 251.

(*i*) §§ 11, 48, 52.

(*k*) § 24.

(*l*) §§ 27, 38.

(*m*) § 33.

declara-
tions.
1854, ss.
31, 38, 39,
56, 58, 59.
52 & 53
Vict. c. 10.
54 & 55
Vict. c. 50.

Application
of fees.
1851, s. 95.
36 & 37
Vict. c. 85,
s. 29.

*Returns,
Evidence,
and Forms.*

Returns to
be made
by regis-
trars.
1854, ss.
91, 278.
35 & 36
Vict. c. 73,
s. 4.

concerned in the same, and of such other particulars as may be directed by the said Registrar-General.

(2.) Every registrar (*n*) at a port (*o*) in the United Kingdom shall on or before the first day of February and the first day of August in every year transmit to the Registrar-General of Shipping and Seamen (*p*) a list of all ships (*o*) registered at that port (*q*), and also of all ships whose registers have been transferred or cancelled (*r*) at that port since the last preceding return.

Evidence of register book, certificate of registry, and other documents. 1854, ss. 92, 107.

64.—(1.) A person, on payment of a fee not exceeding one shilling, to be fixed by the Commissioners of Customs, may on application to the registrar (*n*) at a reasonable time during the hours of his official attendance, inspect any register book (*s*).

(2.) (*t*) The following documents shall be admissible in evidence in manner provided by this Act (*u*), namely (*s*),—

(a.) Any register book (*s*) under this Part of this Act on its production from the custody of the registrar (*n*) or other person having the lawful custody thereof;

(b.) A certificate of registry (*x*) under this Act purporting to be signed by the registrar or other proper officer (*y*);

(c.) An endorsement on a certificate of registry (*z*) purporting to be signed by the registrar (*n*) or other proper officer (*t*);

(d.) Every declaration (*a*) made in pursuance of this Part of this Act in respect of a British ship (*b*).

18 & 19

Vict. c. 91,
s. 15.

(3.) A copy or transcript of the register of British ships kept by the Registrar-General (*p*) of Shipping and Seamen under the direction of the Board of Trade shall be admissible in evidence in manner provided by this Act (*u*), and have the same effect to all intents as the original register of which it is a copy or transcript (*c*).

(*n*) § 4.

(*o*) Defined, § 742.

(*p*) § 251.

(*q*) § 13.

(*r*) § 53.

(*s*) § 5. For the obligation to provide examined and certified copies, see § 695, s. 2.

(*t*) Under § 19.

(*u*) § 695.

(*x*) § 14.

(*y*) Consular officers under §§ 18, 22.

(*z*) See §§ 19, 49, 50.

(*a*) Cf. §§ 9, 25, 27, 38.

(*b*) Notes to § 1.

(*c*) The register being thus public, the registration as owner

65.—(1.) The several instruments and documents specified in the second part of the First Schedule to this Act shall be in the form prescribed by the Commissioners of Customs, with the consent of the Board of Trade, or as near thereto as circumstances permit (*e*); and the Commissioners of Customs may, with the consent of the Board of Trade, make such alterations (*f*) in the forms so prescribed, and also in the forms set out in the first part of the said Schedule, as they may deem requisite (*g*).

Forms of documents, and instructions as to registry. 1854, s. 96. 18 & 19 Vict. c. 91, s. 11.

(2.) A registrar (*h*) shall not be required without the special direction of the Commissioners of Customs to receive and enter in the register book any bill of sale (*i*), mortgage (*k*), or other instrument for the disposal or transfer of any ship or share, or any interest therein (*l*), which is made in any form other than that for the time being required under this Part of this Act, or which contains any particulars other than those contained in such form; but the said Commissioners shall, before altering the forms, give such public notice thereof as may be necessary in order to prevent inconvenience.

(3.) The Commissioners of Customs shall cause the said forms (*m*) to be supplied to all registrars under this Act (*h*) for distribution to persons requiring to use the same, either free of charge, or at such moderate prices as they may direct.

(4.) The Commissioners of Customs, with the consent

may, by public notice of the new title, take the vessel out of the order and disposition of the vendor or transferor, and thus protect the person registered in the event of the bankruptcy of his predecessor. It may also amount to *prima facie* evidence of liability for ship's debts; but on this, see *Frazer v. Cuthbertson* (1880), 6 Q. B. D. 97-99, and notes to § 59. The publicity thus given does not, however, render it people's duty to look at the register. Cf. *Williams v. Allsup* (1861), 10 C. B. N. S. 417, in the argument.

(*e*) Penalties for forging, &c., §§ 64, 67.

(*f*) As to notice of alterations, see

sub-s. 2, at end.

(*g*) In accordance with the policy of the framers of this Act, these forms, as they may be altered without the consent of Parliament, are not set out in the schedule; the three forms set out in the first part of the schedule are so set out without any logical reason, as they may be altered under this section. They are presumably set out on account of their general importance.

(*h*) § 4.

(*i*) § 26.

(*k*) § 31.

(*l*) *e.g.* a transfer of mortgage, § 37.

(*m*) Sub-s. 1.

of the Board of Trade, may also, for carrying into effect this Part of this Act, give such instructions to their officers as to the manner of making entries in the register book (*n*), as to the execution and attestation of powers of attorney, as to any evidence required for identifying any person, as to the referring to themselves of any question involving doubt or difficulty, and generally as to any act or thing to be done in pursuance of this Part of this Act, as they think fit.

Forgery and False Declarations.

*Forgery
and False
Declarations.*

Forgery of
docu-
ments.
1854, s.
101.

66. If any person forges, or fraudulently alters, or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered, any of the following documents, namely, any register book (*o*), builder's certificate (*p*), surveyor's certificate (*q*), certificate of registry (*r*), declaration (*s*), bill of sale (*t*), instrument of mortgage (*u*), or certificate of mortgage or sale (*x*) under this Part of this Act, or any entry or endorsement (*y*) required by this Part of this Act to be made in or on any of those documents, that person shall in respect of each offence be guilty of forgery.

False de-
clarations
18 & 19
Vict. c. 91,
s. 9.

67.—(1.) If any person in the case of any declaration (*s*) made in the presence of or produced to a registrar under this Part of this Act, or in any document or other evidence produced to such registrar—

- (i.) wilfully makes, or assists in making, or procures to be made any false statement concerning the title to or ownership of, or the interest existing in any ship (*z*), or any share in a ship (*z*); or
- (ii.) utters, produces, or makes use of any declaration, or document containing any such false statement knowing the same to be false,

(*n*) §§ 5, 11, &c.

(*o*) § 5.

(*p*) § 10.

(*q*) § 6.

(*r*) § 14.

(*s*) §§ 9, 25, 27, 38.

(*t*) § 24.

(*u*) § 31.

(*x*) § 39.

(*y*) *e.g.* §§ 19, 49, 50.

(*z*) Defined, § 742.

he shall in respect of each offence be guilty of a misdemeanor (c).

(2.) If any person wilfully makes a false declaration (a) touching the qualification of himself or of any other person or of any corporation to own a British ship (b) or any share therein (b), he shall for each offence be guilty of a misdemeanor (c), and that ship or share shall be subject to forfeiture under this Act (d), to the extent of the interest therein of the declarant, and also, unless it is proved that the declaration was made without authority, of any person (e) or corporation (f) on behalf of whom the declaration is made.

National Character and Flag.

68.—(1.) An officer of customs shall not grant a clearance (g) or transire (h) for any ship (i) until the master (i) of such ship has declared to that officer the name of the nation to which he claims that she belongs, and that officer shall thereupon inscribe that name on the clearance (g) or transire (h).

(2.) If a ship attempts to proceed to sea without such clearance (g) or transire (h), she may be detained until the declaration is made (k).

National Character and Flag.

National character of ship to be declared before clearance. 1854, s. 102.

69.—(1.) If a person uses the British flag and assumes the British national character (l) on board a ship owned

Penalty for unduly assuming British character. 1854, s. 103 (1).

- (a) §§ 9, 25, 27, 38.
- (b) § 1.
- (c) Procedure, §§ 680-684; fine how applicable, §§ 699, 716.
- (d) § 76.
- (e) Cf. § 55.
- (f) Cf. § 61, s. 2.
- (g) 39 & 40 Vict. c. 38, s. 128.
- (h) Pass for goods, granted by the Customs. Cf. § 145 of Act last cited.
- (i) Defined, § 742.
- (k) § 692.

(l) An instance of such assumption would seem to be using a British certificate of registry, and so claiming to be British; the case of a foreign ship of war disguising herself

as a British ship is suggested in the exception. *Quere*, whether a person who flies a British flag and carries British documents on a ship originally British, in which without his knowledge a share by sale or transmission has become vested in an unqualified person, "uses the British flag, for the purpose of making the ship appear to be a British ship." He apparently does; but perhaps, in a penal section, knowledge that the ship is not a British ship would be required as part of the offence, otherwise the section might work very harsh consequences. Section 71 appears to provide an adequate penalty for such an occurrence.

in whole or in part by any persons not qualified to own a British ship (*m*), for the purpose of making the ship appear to be a British ship, the ship shall be subject to forfeiture under this Act (*n*), unless the assumption has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in the exercise of some belligerent right.

(2.) In any proceeding for enforcing any such forfeiture the burden of proving a title to use the British flag and assume the British national character shall lie upon the person using and assuming the same.

Penalty
for con-
cealment
of British
or assump-
tion of
foreign
character.
1854, s.
103 (2).

70. If the master (*o*) or owner (*p*) of a British ship (*q*) does anything or permits anything to be done, or carries or permits to be carried any papers or documents, with intent to conceal the British character of the ship from any person entitled by British law to inquire into the same (*r*), or with intent to assume a foreign character, or with intent to deceive any person so entitled as aforesaid (*r*), the ship shall be subject to forfeiture under this Act (*n*); and the master (*o*), if he commits or is privy to the commission of the offence, shall in respect of each offence be guilty of a misdemeanor (*s*).

Penalty
for acquir-
ing owner-
ship if un-
qualified.
1854, s.
103 (3).

71. If an unqualified person (*t*) acquires as owner (*p*), otherwise than by such transmission as hereinbefore provided for (*u*), any interest, either legal or beneficial (*x*), in a ship (*o*) using a British flag and assuming the British

(*m*) § 1.

(*n*) § 76. The forfeiture dates from the time of the offence, and affects a subsequent *bona fide* purchaser, ignorant of the offence. *The Annandale* (1877), 2 P. D. 218. It is otherwise with forfeitures not under this Act, as for piracy. *R. v. McCleerty* (1871), L. R. 3 P. C. 673.

(*o*) Defined, § 742.

(*p*) Note to § 58.

(*q*) Note to § 1. This will apply though the ship is not registered, and thus under § 2 is not "recognized as a British ship;" cf. § 72.

(*r*) § 68, 1. In *The Sceptre* (1876), 3 Asp. M. C. N. S. 269, a ship was forfeited on the owner's fraudulent representations to the registrar and custom-house officers, that she was sold to foreigners, and was a Belgian ship, he being still the true owner, and making these representations to avoid the British legislation as to unseaworthy ships.

(*s*) Procedure, §§ 680-684; fine how applicable, §§ 699, 716.

(*t*) § 1, and notes.

(*u*) § 28.

(*x*) § 57.

character, that interest shall be subject to forfeiture (*x*) under this Act (*y*).

72. Where it is declared by this Act that a British ship (*z*) shall not be recognized as a British ship (*a*), that ship shall not be entitled to any benefits, privileges, advantages, or protection usually enjoyed by British ships (*b*), nor to use the British flag or assume the British national character, but so far as regards the payment of dues, the liability to fines and forfeiture, and the punishment of offences committed on board such ship (*c*), or by any persons belonging to her, such ship shall be dealt with in the same manner in all respects as if she were a recognized British ship (*d*).

Liabilities of ships not recognized as British. 1854, s. 106.

73.—(1.) The red ensign usually worn by merchant ships, without any defacement or modification whatsoever, is hereby declared to be the proper national colours for all ships (*e*) and boats belonging to any British subject, except in the case of Her Majesty's ships or boats, or in the case of any ship (*e*) or boat for the time being allowed to wear any other national colours in pursuance of a warrant from Her Majesty or from the Admiralty.

National colours for ships, and penalty on carrying improper colours. 1854, s. 105. Vict. c. 73, ss. 1, 3.

(2.) If any distinctive national colours (*f*), except such red ensign or except the Union Jack with a white border (*g*), or if any colours usually worn by Her Majesty's ships or

(*x*) See note (*n*) to § 69.

(*y*) § 76.

(*z*) § 1, and notes.

(*a*) §§ 2, 48.

(*b*) 'Thus a launch, over 15 tons, not yet registered, which, while being launched came into collision, was not recognized as a British ship, and therefore was held not entitled to limit her liability under the clause reproduced as § 503 of this Act. *The Andalusian* (1878), 3 P. D. 182. So also in *Leary v. Lloyd* (1860), 3 E. & E. 178, before the passing of the section reproduced as § 266 of this Act, it was held that a conviction for harbouring a deserter from a British ship could not be sustained unless the ship was shown to be registered, the procedure being ap-

parently treated as a benefit to the ship.

(*c*) In *R. v. Seberg* (1870), L. R. 1 C. C. R. 264, the jurisdiction for maliciously wounding on the high seas was exercised, though there was no evidence of British register.

(*d*) This must be limited as to Part II. by § 266, which provides that "Part II. shall apply to an unregistered British ship, which ought to have been registered under this Act, as if such ship had been registered in the United Kingdom."

(*e*) Defined, § 742.

(*f*) These words are chosen to exclude such flags as house flags, or the blue Peter.

(*g*) i.e. The pilot Jack.

resembling those of Her Majesty, or if the pendant usually carried by Her Majesty's ships or any pendant resembling that pendant, are or is hoisted on board any ship (*g*) or boat belonging to any British subject without warrant from Her Majesty or from the Admiralty, the master (*g*) of the ship or boat, or the owner (*h*) thereof, if on board the same, and every other person hoisting the colours or pendant, shall for each offence incur a fine not exceeding five hundred pounds (*i*).

(3.) Any commissioned officer on full pay in the military or naval service of Her Majesty, or any officer of customs in Her Majesty's dominions, or any British consular officer (*k*), may board any ship (*g*) or boat on which any colours or pendant are hoisted contrary to this Act, and seize and take away the colours or pendant, and the colours or pendant shall be forfeited to Her Majesty.

(4.) A fine under this section may be recovered with costs in the High Court (*l*) in England or Ireland, or in the Court of Session in Scotland, or in any Colonial Court of Admiralty (*g*) or Vice-Admiralty Court within Her Majesty's dominions.

(5.) Any offence mentioned in this section may also be prosecuted, and the fine for it recovered, summarily (*m*), provided that:—

(*a.*) where any such offence is prosecuted summarily (*m*), the court imposing the fine shall not impose a higher fine than one hundred pounds; and

(*b.*) nothing in this section shall authorize the imposition of more than one fine in respect of the same offence.

Penalty on
ship not
showing
colours.
52 & 53
Vict. c. 73,
ss. 2, 4.

74.—(1.) A ship (*g*) belonging to a British subject shall hoist the proper national colours (*n*)—

(*a.*) on a signal being made to her by one of Her

(*g*) Defined, § 742.

(*h*) Note to § 58.

(*i*) This, being a criminal liability, applies though the ship is unregistered; cf. § 72. Procedure to recover fines, see ss. 4, 5. For proceedings against a merchant ship for flying an illegal flag, see *R. v. Ewen* (1856),

2 Jur. N. S. 454.

(*k*) Int. Act, 1889, § 12, s. 20.

(*l*) Admiralty Division, see Merchant Shipping Rules (1894), s. 1, appendix.

(*m*) Procedure, §§ 680–684; application of fines, §§ 693, 716.

(*n*) § 73, s. 1.

Majesty's ships (including any vessel(*o*) under the command of an officer of Her Majesty's navy on full pay), and

- (*b.*) on entering or leaving any foreign port(*p*), and
- (*c.*) if of fifty tons gross tonnage(*q*) or upwards, on entering or leaving any British port(*p*).

(2.) If default is made on board any such ship(*p*) in complying with this section, the master(*p*) of the ship shall for each offence be liable to a fine not exceeding one hundred pounds(*r*).

(3.) This section shall not apply to a fishing boat duly entered in the fishing-boat register and lettered and numbered as required by the Fourth Part of this Act(*s*).

75. The provisions of this Act with respect to colours worn by merchant ships(*t*) shall not affect any other power of the Admiralty in relation thereto.

Saving for Admiralty.
52 & 53
Vict. c. 73,
s. 5.

Forfeiture of Ship.

Forfeiture of Ship.

76.—(1.) When any ship has either wholly or as to any share therein become subject to forfeiture under this Part of this Act(*u*),

Proceedings on forfeiture of ship.
1854, ss.
52, 103.

- (*a.*) any commissioned officer on full pay in the military or naval service of Her Majesty ;
- (*b.*) any officer of customs in Her Majesty's dominions ;

or

- (*c.*) any British consular officer(*x*),

may seize and detain the ship, and bring her for adjudication before the High Court(*y*) in England or Ireland, or before the Court of Session in Scotland, and elsewhere before any Colonial Court of Admiralty(*p*) or Vice-Admiralty in Her Majesty's dominions, and the court may thereupon adjudge the ship(*p*) with her tackle, apparel, and furniture to be forfeited to Her Majesty, and make such order in the

(*o*) Wider than "ship." See notes to § 742.

(*p*) Defined, § 742.

(*q*) § 77, s. 1.

(*r*) Procedure, §§ 680-684 ; application of fines, §§ 699, 716.

(*s*) § 373.

(*t*) §§ 73, 74.

(*u*) e.g. §§ 70, 71.

(*x*) Int. Act, 1889, § 12, s. 20.

(*y*) Admiralty Division, Merchant Shipping Rules, 1894, § 1, appendix.

case as to the court seems just, and may award to the officer bringing in the ship for adjudication such portion of the proceeds of the sale of the ship, or any share therein, as the court thinks fit.¹

1854, s.
104.

(2.) Any such officer as in this section mentioned (z) shall not be responsible either civilly or criminally to any person whosoever in respect of any such seizure or detention as aforesaid, notwithstanding that the ship has not been brought in for adjudication (z), or if so brought in is declared not liable to forfeiture, if it is shown to the satisfaction of the court before whom any trial relating to such ship or such seizure or detention is held (z) that there were reasonable grounds for such seizure or detention; but if no such grounds are shown the court may award costs and damages to any party aggrieved, and make such other order in the premises as the court thinks just.

*Measure-
ment of
Ship and
Tonnage.*

Rules for
ascertain-
ing re-
gister
tonnage.
1854, ss.
20, 24.
18 & 19
Vict. c. 91,
s. 14.
35 & 36
Vict. c. 73,
s. 3.
52 & 53
Vict. c. 43,
s. 1.

Measurement of Ship (a) and Tonnage.

77.—(1.) The tonnage of every ship (a) to be registered (b), with the exceptions herein-after mentioned (c), shall, previously to her being registered (d), be ascertained by Rule I. in the Second Schedule to this Act, and the tonnage of every ship to which that Rule I. can be applied (e), whether she is about to be registered or not, shall be ascertained by the same rule (f).

(2.) Ships which, requiring to be measured for any purpose other than registry, have cargo on board (e), and ships which, requiring to be measured for the purpose of registry, cannot be measured by Rule I. (e), shall be measured by Rule II. in the said Schedule, and the owner of any ship measured under Rule II. may at any subsequent period apply to the Board of Trade to have the ship re-measured under Rule I., and the Board may thereupon, upon payment of such fee not exceeding seven shillings

(z) Sub-s 1.

(a) Defined, § 742.

(b) As to corrections in existing tonnage, see § 745, s. 3.

(c) Sub-ss. 2, 3, & § 78, s. 1 (b).

(d) § 6.

(e) Rule I. assumes that there is an empty hold.

(f) This applies to ships already registered at the time of the Act.

and sixpence for each transverse section (*g*) as they may authorize, direct the ship to be re-measured accordingly, and the number denoting the register tonnage (*h*) shall be altered accordingly.

(3.) For the purpose of ascertaining the register tonnage of a ship the allowance (*i*) and deductions (*k*) herein-after mentioned shall be made from the tonnage of the ship ascertained as aforesaid.

(4.) In the measurement of a ship for the purpose of ascertaining her register tonnage, no deduction shall be allowed in respect of any space which has not been first included in the measurement of her tonnage.

(5.) In ascertaining the tonnage of open (*l*) ships Rule IV. in the said Schedule shall be observed.

(6.) Throughout the rules in the Second Schedule to this Act, the tonnage deck shall be taken to be the upper deck in ships which have less than three decks, and to be the second deck from below in all other ships, and in carrying those rules into effect all measurements shall be taken in feet, and fractions of feet shall be expressed in decimals.

(7.) The Board of Trade may make such modifications and alterations as from time to time become necessary in the rules in the Second Schedule to this Act for the purpose of the more accurate and uniform application thereof, and the effectual carrying out of the principle of measurement therein adopted (*m*).

(8.) The provisions of this Act relating to tonnage, together with the rules for the time being in force (*n*), are in this Act referred to as the tonnage regulations of this Act.

(*g*) Rule I. s. 2.

(*h*) Cf. Rule I. s. 3, end.

(*i*) § 78.

(*k*) § 79; cf. § 77, s. 4.

(*l*) i.e. undecked.

(*m*) Schedule II. as altered under s. 7.

(*n*) These clauses have been settled on the principle of putting into Schedule II. those parts of the Acts

reproduced which the Board of Trade have power to alter under this sub-section, following the decision in *City of Dublin Steam-Packet Co. v. Thompson* (1856), L. R. 1 C. P. 355. Those parts of the old Acts which it was decided in that case that the Board of Trade had no power to alter, appear in this Act.

Allowance
forengine-
room space
in steam-
ships.
1854, s. 23.
35 & 36
Vict. c. 73,
s. 3.

78.—(1.) In the case of any ship (*o*) propelled by steam or other power requiring engine room (*p*), an allowance shall be made for the space occupied by the propelling power, and the amount so allowed shall be deducted from the gross tonnage of the ship ascertained as in the last preceding section mentioned, and the remainder shall (subject to any deductions herein-after mentioned (*q*)) be deemed to be the register tonnage of the ship, and that deduction shall be estimated as follows (that is to say),

(*a*.) As regards ships (*o*) propelled by paddle wheels in which the tonnage of the space solely occupied by and necessary for the proper working of the boilers and machinery is above twenty per cent. and under thirty per cent. of the gross tonnage of the ship, the deduction shall be thirty-seven one-hundredths of the gross tonnage; and in ships (*o*) propelled by screws, in which the tonnage of such space is above thirteen per cent. and under twenty per cent. of the gross tonnage, the deduction shall be thirty-two one-hundredths of the gross tonnage:

(*b*.) As regards all other ships (*r*), the deduction shall, if the Board of Trade and the owner both agree thereto, be estimated in the same manner; but either they or he may, in their or his discretion, require the space to be measured and the deduction estimated accordingly; and whenever the measurement is so required, the deduction shall consist of the tonnage (*s*) of the space actually occupied by or required to be enclosed for the proper working of the boilers and machinery, with the addition in the case of ships propelled by paddle wheels of one half, and in the case of ships propelled by screws of three-fourths of the tonnage of the space; and in the case of ships propelled by screws, the contents of the shaft trunk shall be added to and deemed to form part of the space; and the

(*o*) Defined, § 742.

(*p*) This includes ships propelled by electricity; § 743.

(*q*) § 79; cf. § 77, s. 4.

(*r*) *i.e.* ships in which the proportions are other than those stated in sub-s. (*a*).

(*s*) As estimated under Rule III.

measurement of the space shall be governed by Rule III. in the Second Schedule to this Act.

(2.) Such portion of the space above the crown of the engine-room and above the upper deck as is framed in for the machinery or for the admission of light and air shall not be included in the measurement of the space occupied by the propelling power, except in pursuance of a request in writing to the Board of Trade by the owner of the ship, but shall not be included in pursuance of that request unless—

52 & 53
Vict. c. 43,
s. 2.

(a.) that portion is first included in the measurement of the gross tonnage (*t*); and

(b.) a surveyor of ships (*u*) certifies that the portion so framed in is reasonable in extent and is so constructed as to be safe and seaworthy, and that it cannot be used for any purpose other than the machinery or for the admission of light and air to the machinery or boilers of the ship.

(3.) Goods or stores shall not be stowed or carried in any space measured for propelling power, and if the same are so carried in any ship (*x*), the master (*x*) and owner (*y*) of the ship shall each be liable to a fine not exceeding one hundred pounds (*z*).

79.—(1.) In measuring or re-measuring a ship (*x*) for the purpose of ascertaining her register tonnage (*a*), the following deductions shall be made from the space included in the measurement of the tonnage (*t*), namely (*b*):—

Deductions for ascertaining tonnage.
52 & 53
Vict. c. 43,
s. 3.
30 & 31
Vict. c.
124, s. 9.

(a.) in the case of any ship,

(i.) any space used exclusively for the accommodation of the master; and any space occupied by

(*t*) Cf. § 77, s. 4.

(*u*) § 724.

(*x*) Defined, § 742.

(*y*) Note to § 58.

(*z*) Procedure, §§ 680–684; fine how applicable, §§ 699, 716.

(a) § 77, s. 1.

(b) All these spaces must, under § 77, s. 4, be included in the gross tonnage of the ship, though not in the registered. In actions for limitation of liability, which result in a limitation calculated on gross ton-

nage, in the case of steamships (§ 503), the certified crew space may be deducted under express provisions (cf. § 503, s. 2 (*a*.); *The Petrel* (1893), P. 320; *The Umbilo* (1892), P. 118; cf. *The Franconia* (1878), 3 P. D. 164; and *The Palermo* (1884), 10 P. D. 21); while the master's accommodation or navigation spaces cannot. *The Umbilo*, v. s. They can in sailing ships; *The Pilgrim* (1895), P. 117.

seamen or apprentices and appropriated to their use (c), which is certified under the regulations scheduled to this Act with regard thereto (d);

- (ii.) any space used exclusively for the working of the helm, the capstan, and the anchor gear, or for keeping the charts, signals, and other instruments of navigation, and boatswain's stores; and
- (iii.) the space occupied by the donkey engine and boiler, if connected with the main pumps of the ship; and

- (b.) in the case of a ship wholly propelled by sails, any space set apart and used exclusively for the storage of sails (e).

(2.) The deductions allowed under this section, other than a deduction for a space occupied by seamen or apprentices, and certified as aforesaid (d), shall be subject to the following provisions, namely :

- (a.) the space deducted must be certified by a surveyor of ships (f) as reasonable in extent and properly and efficiently constructed for the purpose for which it is intended;
- (b.) there must be permanently marked in or over every such space a notice stating the purpose to which it is to be applied, and that whilst so applied it is to be deducted from the tonnage of the ship;
- (c.) the deduction on account of space for storage of sails must not exceed two and a half per cent. of the tonnage (g) of the ship.

Provisions
as to de-
ductions
in case of
certain
steam-
ships.

52 & 53

Vict. c. 43,
s. 4.

80. In the case of a screw steamship which, on the twenty-sixth day of August, one thousand eight hundred and eighty-nine (h), had an engine-room allowance of thirty-two per cent. of the gross tonnage of the ship, and in which any crew space on deck has not been included in the gross

(c) The distinction between crew space on the upper and below the upper deck, which is the ground of the decisions in *The Franconia* and *The Palermo, v. s.*, was abolished by the Act of 1889, and does not appear on Schedule VI.

(d) Schedule VI.

(e) Sub-s. 2 (c).

(f) § 724.

(g) i.e. gross.

(h) The date of coming into force of the Act of 1889.

tonnage, whether its contents have been deducted therefrom or not, the crew space shall, on the application of the owner of the ship, or by direction of the Board of Trade, be measured and its contents ascertained and added to the register tonnage of the ship; and if it appears that with that addition to the tonnage the engine-room does not occupy more (i) than thirteen per cent. of the tonnage of the ship, the existing allowance for engine-room of thirty-two per cent. of the tonnage shall be continued.

81. In the case of a ship (k) constructed with a double bottom for water ballast, if the space between the inner and outer plating thereof is certified by a surveyor of ships (l) to be not available for the carriage of cargo, stores, or fuel, then the depth required by the provisions of Rule I. (m) relating to the measurement of transverse areas shall be taken to be the upper side of the inner plating of the double bottom, and that upper side shall, for the purposes of measurement, be deemed to represent the floor timber referred to in that Rule (n).

Measurement of ships with double bottoms for water ballast. 52 & 53 Vict. c. 43, s. 5.

82. Whenever the tonnage of any ship has been ascertained and registered in accordance with the tonnage regulations of this Act (o), the same shall thenceforth be deemed to be (p) the tonnage of the ship, and shall be repeated in every subsequent registry thereof, unless any alteration is made in the form or capacity of the ship, or unless it is discovered that the tonnage of the ship has been erroneously computed; and in either of those cases the ship shall be re-measured, and her tonnage determined and registered according to the tonnage regulations of this Act (o).

Tonnage once ascertained to be the tonnage of ship. 1854, s. 26.

83. Such fees as the Board of Trade determine shall be

Fees for measurement-

(i) *Seemle*, that if it does occupy more than 13 per cent., the allowance will still be thirty-two hundredths;

see § 78, s. 1 (a).

(k) Defined, § 742.

(l) § 724.

(m) Schedule II.

S.M.S.A.

(n) Cf *The Zanzibar* (1892), P. 233.

(o) § 77, s. 8.

(p) It is only *prima facie* evidence, and can be displaced by evidence to the contrary. *The Receipta* (1889), 14 P. D. 131; *The Franconia* (1878), 3 P. D. 164, as to foreign ships.

ment. paid in respect of the measurement of a ship's tonnage not
 36 & 37 exceeding those specified in the Third Schedule to this
 Vict. c. 85, Act, and those fees shall be paid into the Mercantile
 s. 30. Marine Fund (q).
 45 & 46
 Vict. c. 55,

s. 4. **84 (r).**—(1.) Whenever it appears to Her Majesty the
 Tonnage of ships of Queen in Council that the tonnage regulations of this
 of ships of foreign Act (s) have been adopted by any foreign Country, and are
 countries adopting in force there, Her Majesty in Council (t) may order that
 tonnage the ships of that country shall, without being re-measured
 regula- in Her Majesty's dominions, be deemed to be (u) of the
 tions. tonnage denoted in their certificates of registry or other
 1862, ss. national papers, in the same manner, to the same extent,
 60, 62. and for the same purposes as the tonnage denoted in the
 52 & 53 certificate of registry (x) of a British ship is deemed to be
 Vict. c. 43, the tonnage of that ship (y).
 s. 6.

(2.) Her Majesty in Council (t) may limit the time during
 which the Order is to remain in operation, and make the
 Order subject to such conditions and qualifications (if any)
 as Her Majesty may deem expedient, and the operation of
 the Order shall be limited and modified accordingly.

(3.) If it is made to appear to Her Majesty that the
 tonnage of any foreign ship (z), as measured by the rules of
 the country to which she belongs, materially differs from
 that which would be her tonnage if measured under this
 Act (a), Her Majesty in Council (t) may order that, notwith-
 standing any Order in Council for the time being in force
 under this section, any of the ships (z) of that country may,
 for all or any of the purposes of this Act, be re-measured
 in accordance with this Act (a).

Space oc- **85.**—(1.) If any ship (z), British (b) or foreign, other than
 cupied by a home-trade ship (z) as defined by this Act, carries as deck
 deck cargo

to be liable (g) § 676, 1 (a).
 to dues. (r) Orders in Council under this
 39 & 40 section have been made as to
 Vict. c. 80, Austria, Belgium, Denmark, France,
 ss. 23, 44. Germany, Holland, Italy, Norway,
 Russia, Sweden, the United States
 of America, and some minor
 countries. See Index to *London*
Gazette.

(g) § 77, s. 8.
 (i) § 738.
 (u) See note (p), p. 65.
 (z) § 14.
 (y) § 82.
 (a) Defined, § 742.
 (a) § 77.
 (b) Note to § 1.

cargo, that is to say, in any uncovered space upon deck, or in any covered space not included in the cubical contents forming the ship's registered tonnage (*c*), timber, stores, or other goods, all dues payable on the ship's tonnage (*d*) shall be payable as if there were added to the ship's registered tonnage the tonnage of the space occupied by those goods at the time at which the dues become payable.

(2.) The space so occupied shall be deemed to be the space limited by the area occupied by the goods and by straight lines inclosing a rectangular space sufficient to include the goods.

(3.) The tonnage of the space shall be ascertained by an officer of the Board of Trade or of Customs in manner directed as to the measurement of poops or other closed-in spaces by Rule I. in the Second Schedule to this Act (*c*), and when so ascertained shall be entered by him in the ship's official log book (*e*), and also in a memorandum which he shall deliver to the master, and the master shall, when the said dues are demanded, produce that memorandum in like manner as if it were the certificate of registry (*f*), or, in the case of a foreign ship, the document equivalent to a certificate of registry, and in default shall be liable to the same penalty as if he had failed to produce the said certificate or document (*g*).

(4.) Nothing in this section shall apply to any ship (*h*) employed exclusively in trading or going from place to place in any river or inland water of which the whole or part is in any British possession (*i*), or to deck cargo carried by a ship while engaged in the coasting trade of any British possession (*i*).

86. All duties in relation to the survey and measurement of ships shall be performed by surveyors of ships (*k*) under this Act in accordance with regulations made by the Board of Trade.

(*c*) Cf. Schedule II. Rule I. s. 5; and *The Bear*; *The Lord Advocate v. Clyde Nav. Co.* (1875), L. R. 2 H. L. Sc. 409.

(*d*) e.g. light and port dues.

(*e*) § 240.

(*f*) § 14.

(*g*) § 15, s. 2.

(*h*) Defined, § 742.

(*i*) Int. Act, 1889, § 18, s. 2.

(*k*) § 724.

Surveyors and regulations for measurement of ships. 1854, s. 29, 35 & 36 Vict. c. 73, ss. 3, 13.

Levy of
tonnage
rates
under
local Acts
on the
registered
tonnage.
1862, s. 4.

87. Any persons (*l*) having power to levy tonnage rates on ships may, if they think fit, with the consent of the Board of Trade, levy those tonnage rates upon the registered tonnage of the ships as determined by the tonnage regulations of this Act (*m*), notwithstanding that any local Act under which those rates are levied provides for levying the same upon some different system of tonnage measurement.

Ports of Registry in Place under Foreign Jurisdiction Act.

Foreign
ports of
registry.
36 & 37
Vict. c. 85,
s. 29.

88. Where, in accordance with the Foreign Jurisdiction Act, 1890 (*n*), Her Majesty exercises jurisdiction within any port (*o*), it shall be lawful for Her Majesty, by Order in Council (*p*), to declare that port a port of registry (*q*), and by the same or any subsequent Order in Council to declare the description of persons who are to be registrars of British ships at that port of registry (*q*), and to make regulations with respect to the registry of British ships thereat.

Colonies.

Registry in Colonies.

Powers of
Governors
in colo-
nies.
1854, s. 31.
39 & 40
Vict. c. 36,
s. 149.
50 & 51
Vict. c. 62,
s. 3.

89. In every British possession (*r*) the governor (*s*) of the possession shall occupy the place of the Commissioners of Customs with regard to the performance of anything relating to the registry of a ship (*o*) or of any interest in a ship registered in that possession, and shall have power to approve a port within the possession (*r*) for the registry of ships.

Termin-
able cer-
tificates of
registry
for small
ships in
colonies.
31 & 32
Vict. c. 129,
ss. 1, 2.

90.—(1.) The governor (*s*) of a British possession (*r*) may, with the approval of a Secretary of State (*t*), make regulations providing that, on an application for the registry under this Act in that possession of any ship which does not exceed sixty tons burden, the registrar may grant, in lieu of a certificate of registry as required by this Act (*u*), a

(*l*) Includes corporations; Int. Act, 1889, § 19.

(*m*) § 77, s. 8.

(*n*) 53 & 54 Vict. c. 37.

(*o*) Defined, § 742.

(*p*) § 738.

(*q*) § 4.

(*r*) Int. Act, 1889, § 18, s. 2.

(*s*) Ibid. s. 6.

(*t*) Ibid. § 12, s. 3.

(*u*) § 14.

certificate of registry to be terminable at the end of six months or any longer period from the granting thereof, and all certificates of registry granted under any such regulations shall be in such form and have effect subject to such conditions as the regulations provide.

(2.) Any ship to which a certificate is granted under any such regulations shall, while that certificate is in force, and in relation to all things done or omitted during that period, be deemed to be a registered British ship (x).

Application of Part I.

91. This Part of this Act shall apply to the whole of Her Majesty's dominions, and to all places where Her Majesty has jurisdiction (y).

Applica-
tion of
Part I.
1854, s.17.

(x) Cf. § 2.

(y) e.g. under the Foreign Jurisdiction Act, 53 & 54 Vict. c. 37. See

§ 88 of this Act. As to foreign ships, see note (b) to § 1.



PART II.

1854 = 17 & 18 Vict. c. 104.

1862 = 25 & 26 Vict. c. 63.

The marginal references are to the Acts reproduced by the sections.

Int. Act, 1889 = Interpretation Act, 1889 (52 & 53 Vict. c. 63); and see Appendix.

PRELIMINARY NOTE TO PART II.

MASTERS AND SEAMEN.

THIS Part of the Act contains most (a) of the provisions relating to the rights and duties of masters and seamen.

It applies, unless the context or subject-matter otherwise requires;—

I. To all sea-going ships (b) registered in the United Kingdom (c), except in so far as lighthouse ships, pleasure yachts, and fishing-boats are excepted.

(A.) Lighthouse ships and pleasure yachts are exempted from the operation of certain clauses specified in § 262.

(B.) As to fishing-boats, (which have a separate code provided for them in Part IV. of this Act):—

(a) The provisions as to cancelling officers' certificates are to be found in Part VI.; and Part I. imposes duties on masters, while Part III. contains

the duties of masters in their relation to passengers.

(b) Defined § 742.

(c) § 260.

(a.) Certain provisions of this Part, specified in § 263, s. 2, are not to apply to any fishing-boats, whether exclusively employed in fishing on the coast of the United Kingdom or not, unless they come within the subsection as to Scotland (d).

(b.) Certain provisions of this Part, being all its provisions except those mentioned in § 263, s. 1, are not to apply to any fishing-boats exclusively employed in fishing on the coasts of the United Kingdom, unless they come within the section as to Scotland (d).

(c.) So far as respects Scotland, the whole of the Part, with the exception of the sections enumerated in § 262, applies to all fishing-boats (e).

II. (f) To all unregistered British (g) ships (h), which ought to have been registered under this Act (i), as if they had been registered in the United Kingdom (k).

III. To all sea-going British (g) ships (h), registered out of the United Kingdom, but employed in trading or going between any port in the United Kingdom and any port not situate in the British possession or country where the ship is registered (l).

IV. As to certain provisions specified in § 261, s. (a.), to all sea-going British (g) ships (h) registered out of the United Kingdom (m).

V. As to certain provisions specified in § 261, s. (d.), to all sea-going British (g) ships (h) registered out of the United Kingdom, except when within the jurisdiction of the British possession (n) where the ship is registered (o).

(d) § 263, s. 3.

(e) A doubt may arise whether this applies to fishing-boats in Scotch waters, wherever registered, or to fishing-boats registered in Scotch ports. § 265 suggests that the latter is the true view.

(f) § 266.

(g) Note to § 1.

(h) Defined, § 742.

(i) §§ 2, 3.

(k) See Class I. above.

(l) § 261, s. (c.).

(m) § 261, s. (a.).

(n) Int. Act, 1889, § 18, s. 2.

(o) § 261, s. (d.).

VI. As to certain provisions specified in § 261, s. (b.), to all sea-going British (*p*) ships (*q*) registered out of the United Kingdom, where the crew are discharged, or the final port of destination is, in the United Kingdom (*r*).

VII. To British (*p*) sea-going ships (*q*) registered in any British possession (*n*), or trading with any port (*q*) in that possession, so far as this Part is applied by the legislature (*s*) of that British possession, its provisions shall apply through Her Majesty's dominions (*t*).

VIII. When the Part applies to any ship, its provisions shall also apply to the owners, masters, and crew thereof (*u*).

This Part contains provisions as to—

- (1.) The certificates of competency of the master, officers, and engineers of ships (§§ 92–104).

Further provisions as to suspending and cancelling such certificates will be found in Part VI. of the Act.

- (2.) Apprentices (§§ 105–109).
- (3.) Licences to supply seamen to ships (§§ 110–112).
- (4.) The engagement (§§ 113–125), rating (§ 126), and discharge (§§ 127–130) of seamen; see also § 168.
- (5.) The nature of wages (§§ 155–163), their payment (§§ 181–189), advance or allotment (§§ 140–144), and recovery (§§ 164–167).
- (6.) Seamen's money orders and savings banks (§§ 145–154).
- (7.) The accommodation for (§§ 198–210), discipline of (§§ 220–238), and protection against imposition of (§§ 211–219), seamen.
- (8.) Protection and relief of seamen in distress or abroad (§ 184–194).
- (9.) Property of deceased seamen (§§ 169–181).
- (10.) Official log-books (§§ 239–243).

(*p*) See note to § 1.

(*q*) Defined, § 742.

(*r*) § 261, s. (b.).

(*s*) Int. Act, 1889, § 18, s. 7.

(*t*) § 264.

(*u*) §§ 260–264.

(11.) Local Marine Boards (§§ 244, 245), Mercantile Marine Offices (§§ 246-250), and registration of seamen (§§ 251-258).

(12.) Application of the Part (§§ 260-266).

This Part substantially reproduces Part III. of the Act of 1854. It also incorporates the Seamen's Savings Bank Act, 1856; the Merchant Shipping Act, 1867; and the Merchant Seamen Payment of Wages and Rating Act, 1880; besides minor provisions.

PART II.

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MASTERS AND SEAMEN.

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1854 = 17 & 18 Vict. c. 104

1862 = 25 & 26 Vict. c. 63.

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PART II.

MASTERS AND SEAMEN.

Certificates of Competency.

92.—(1.) Every British (a) foreign-going ship (b) and every British (a) home-trade passenger ship (b), when going to sea from any place in the United Kingdom, and every foreign steam ship (c) carrying passengers (d) between places in the United Kingdom, shall be provided with officers duly certificated under this Act (e) according to the following scale:—

(a.) In any case with a duly certificated master (b):

(b.) If the ship is of one hundred tons burden or upwards, with at least one officer besides the master (b) holding a certificate not lower than that of only mate (f) in the case of a foreign-going ship (b), or of mate (f) in the case of a home-trade passenger ship (b):

(c.) If the ship is a foreign-going ship (b), and carries more than one mate, with at least the first and second mate duly certificated:

(a) For the meaning of "British ship," see note to § 1.

(b) Defined, § 742.

(c) See § 743.

(d) Cf. § 267.

(e) See sub-s. 3, *post*.

(f) § 93, s. 1.

Certificates of Masters, Mates, and Engineers.

Certificates of competency to be held by officers of ships.

1854, ss.

136, 291.

1862, s. 5

(d.) If the ship is a foreign-going steam ship (*g*) of one hundred nominal horse-power or upwards, with at least two engineers one of whom shall be a first-class and the other a first-class or second-class engineer duly certificated :

(e.) If the ship is a foreign-going steam ship (*g*) of less than one hundred nominal horse-power, or a sea-going home-trade passenger ship (*g*), with at least one engineer who is a first-class or second-class engineer duly certificated.

(2.) If any person (*h*) —

(a.) having been engaged as one of the above-mentioned officers goes to sea as such officer without being duly certificated (*i*) ; or

(b.) employs a person as an officer, in contravention of this section, without ascertaining that the person so serving is duly certificated (*i*),

that person (*h*) shall be liable for each offence to a fine not exceeding fifty pounds (*k*).

(3.) An officer shall not be deemed duly certificated, within the meaning of this section, unless he is the holder for the time being of a valid certificate of competency (*l*) under this Act of a grade appropriate to his station in the ship, or of a higher grade (*m*).

Grades of
certifi-
cates of
compe-
tency.
1854, s.
137.
1862, s. 5.

93.—(1.) Certificates of competency (*n*) shall be granted, in accordance with this Act (*o*), for each of the following grades ; that is to say,—

Master (*g*) of a foreign-going ship (*g*) :

First mate of a foreign-going ship (*g*) :

Second mate of a foreign-going ship (*g*) :

Only mate of a foreign-going ship (*g*) :

Master (*g*) of a home-trade passenger ship (*g*) :

Mate of a home-trade passenger ship (*g*) :

(*g*) Defined, § 742.

(*h*) Int. Act, 1889, § 19.

(*i*) See sub-s. 3, *post*.

(*k*) For procedure, see §§ 680-684 ;
application of fine, §§ 699, 716.

(*l*) § 93, s. 1.

(*m*) Certificates granted before the

passing of this Act are treated as granted under the Act. See § 745, s. (*a*)..

(*n*) The certificates may be endorsed with licences to pilot. See § 604.

(*o*) §§ 94-104.

First-class engineer :

Second-class engineer (*p*).

(2.) A certificate of competency for a foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate of a home-trade passenger ship (*q*), and shall entitle the lawful holder thereof to go to sea in the corresponding grade in the last-mentioned ship; but a certificate for a home-trade passenger ship (*q*) shall not entitle the holder to go to sea as master (*q*) or mate of a foreign-going ship (*q*).

94.—(1.) For the purpose of granting certificates of competency (*r*) as masters (*q*), or mates, to persons desirous of obtaining the same, examinations shall be held by Local Marine Boards (*s*) at their respective ports. Examinations for certificates of competency. 1854, ss. 131, 132.

(2.) The Board of Trade (*t*) may make rules which shall be strictly adhered to by the examiners for—

(a.) the conduct of the examinations; and

(b.) the qualification of the applicants:

and may depute any of their officers to attend and assist at any examination.

(3.) The approval of the Board of Trade (*t*) shall be necessary so far as regards the number and the remuneration of the examiners, and an examiner shall not be appointed, unless he holds a certificate of qualification to be from time to time granted or renewed by the Board of Trade.

(4.) The Board of Trade (*t*) may, if it appears to them that the examination for two or more ports (*q*) can be held without inconvenience by the same examiners, provide that the examination be so held, and require the Local Marine Boards (*s*) of those ports to act as one board for the purpose of the examination.

(5.) Subject to the powers of the Board of Trade (*t*) under this section the Local Marine Board (*s*) may appoint, remove, and re-appoint examiners, and regulate the conduct

(*p*) As to forgery or fraud in relation to certificates, see § 104.

(*q*) Defined, § 742.

(*r*) § 93, s. 1.

(*s*) §§ 244, 245.

(*t*) Int. Act, 1889, § 12, s. 8.

of the examinations, and any member of the Local Marine Board may be present at and assist at the examinations held by that Board.

Examina-
tions by
Board of
Trade in
certain
cases.
36 & 37
Vict. c. 85,
s. 10.
1862, s. 17.
Engineers'
certifi-
cates of
compe-
tency.
1862, s. 6.

95. Where the business of a mercantile marine office (*u*) is conducted otherwise than under a Local Marine Board (*x*), the Board of Trade may exercise all such powers and make all such provisions for the holding of examinations as may be exercised and made by a Local Marine Board (*y*).

96.—(1.) For the purpose of granting certificates of competency as engineers to persons desirous of obtaining the same, examinations shall be held at such places as the Board of Trade direct.

(2.) The Board of Trade may appoint times for the examinations, and may appoint, remove, and re-appoint examiners to conduct the same, and determine the remuneration of those examiners, and may regulate the conduct of the examinations and the qualification of the applicants and may do all such acts and things as they think expedient for the purpose of the examinations.

Fees on
examina-
tion.
1854, ss.
11, 133,
417.
1862, s. 7.
50 & 51
Vict. c. 62,
s. 2.

97. An applicant for examination, whether as master, mate, or engineer, shall pay such fees, not exceeding those specified in the Fourth Schedule to this Act, as the Board of Trade direct, and the fees shall be paid to such persons as the Board appoint and carried to the Mercantile Marine Fund (*z*).

Grant of
certifi-
cates on
passing
examina-
tion.
1854, s.
134.
1862, s. 8.

98.—(1.) The Board of Trade shall, subject as herein-after mentioned (*a*), deliver to every applicant who is duly reported by the examiners to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, ability, and general good conduct on board ship, such a certificate of competency (*b*) as the case requires.

(2.) The Board of Trade may in any case in which a report appears to them to have been unduly made, remit

(*u*) §§ 246, 247.
(*x*) §§ 244, 245.
(*y*) § 94.

(*z*) Part XII. of the Act; § 676. 1 (*b*).
(*a*) Sub-s. 2.
(*b*) § 93.

the case either to the examiners who made the report or to any other examiners, and may require a re-examination of the applicant, or a further inquiry into his testimonials and character, before granting him a certificate.

99.—(1.) A person who has attained the rank of lieutenant, sub-lieutenant, navigating lieutenant, or navigating sub-lieutenant in Her Majesty's Navy, or of lieutenant in Her Majesty's Indian Marine Service, shall be entitled to a certificate of service as master (c) of a foreign-going ship (c) without examination.

Certificates of service for naval officers. 1854, s. 135. 1862, s. 9.

(2.) A person who has attained the rank of engineer or assistant engineer in Her Majesty's Navy or Indian Marine Service, shall be entitled without examination, if an engineer, to a certificate of service (d) as first-class engineer (e), and if an assistant engineer to a certificate of service (d) as second-class engineer (e).

(3.) A certificate of service shall differ in form from a certificate of competency (e), and shall contain the name and rank of the person to whom it is delivered, and the Board of Trade shall deliver a certificate of service to any person who proves himself to be entitled thereto.

(4.) The provisions of this Act (including the penal provisions (f)) shall apply in the case of a certificate of service as they apply in the case of a certificate of competency, except that the provisions (g) allowing a holder of a certificate of competency as master (c) of a foreign-going ship (c) to go to sea as master (c) or mate of a home-trade passenger ship (c) shall not apply.

100.—(1.) All certificates of competency shall be made in duplicate, one part to be delivered to the person entitled to the certificate (e), and one to be preserved.

Form and record of certificate. 1854, s. 138. 1862, s. 10. See 1854, s. 271, and 35 & 36 Vict. c. 73, s. 4.

(2.) Such last-mentioned part of the certificate shall be preserved, and a record of certificates of competency and the suspending, cancelling, or altering (h) of the certificates and any other matter affecting them shall be kept, in such

(c) Defined, § 742.

(d) Sub-s. 3.

(e) § 93.

(f) §§ 92-104.

(g) § 93, s. 2.

(h) §§ 469-474.

manner as the Board of Trade direct, by the Registrar-General of Shipping and Seamen (*i*) or by such other person as the Board of Trade direct.

(3.) Any such certificate and any record under this section shall be admissible in evidence in manner provided by this Act (*k*).

Loss of
certificate.
1854, s.
139.
1862, s. 10.

101. If a master (*l*), mate, or engineer proves to the satisfaction of the Board of Trade that he has, without fault on his part, lost or been deprived of a certificate already granted to him, the Board of Trade shall, and in any other case may, upon payment of such fee (if any) as they direct, cause a copy of the certificate to which, by the record kept in pursuance of this Act (*m*), he appears to be entitled, to be certified by the Registrar-General of Shipping and Seamen (*i*), or other person directed to keep the record (*m*), and to be delivered to him; and a copy purporting to be so certified shall have all the effect of the original.

Colonial
certifi-
cates of
compe-
tency.
32 Vict. c.
11, s. 8.
1854, s.
131.
1862, s. 5.

102. Where the legislature (*n*) of any British possession (*o*) provides for the examination of, and grant of certificates of competency to, persons intending to act as masters (*l*), mates, or engineers on board ships, and the Board of Trade report to Her Majesty that they are satisfied that the examinations are so conducted as to be equally efficient with the examinations for the same purpose in the United Kingdom under this Act, and that the certificates are granted on such principles as to show the like qualifications and competency as those granted under this Act, and are liable to be forfeited for the like reasons and in the like manner, Her Majesty may by Order in Council (*p*),—

- (i.) declare that the said certificates shall be of the same force as if they had been granted under this Act: and
- (ii.) declare that all or any of the provisions of this Act, which relate to certificates of competency granted under this Act, shall apply to the certificates referred to in the Order: and

(*l*) § 251.

(*k*) § 695.

(*i*) Defined, § 742.

(*m*) § 100, s. 2.

(*n*) Int. Act, 1889, § 18, s. 7.

(*o*) Ibid. § 18, s. 2.

(*p*) § 738.

- (iii.) impose such conditions and make such regulations with respect to the certificates, and to the use, issue, delivery, cancellation, and suspension thereof, as Her Majesty may think fit, and impose fines not exceeding fifty pounds for the breach of those conditions and regulations.

- 103.—(1.) The master (*q*) of a foreign-going ship (*q*)—
 (a.) on signing the agreement with the crew (*r*) before a superintendent (*s*) shall produce to him the certificates of competency which the master (*q*), mates, and engineers of the ship are by this Act required to hold (*t*): and
 (b.) in the case of a running agreement (*u*) shall also, before the second and every subsequent voyage, produce to the superintendent (*s*) the certificate of competency of any mate or engineer then first engaged by him who is required by this Act to hold a certificate (*t*).

Production of certificates of competency to superintendent. 1854, ss. 161, 162. 1862, s. 10.

(2.) The master (*q*) or owner (*x*) of every home-trade passenger ship (*q*) of more than eighty tons burden shall produce to some superintendent (*s*) within twenty-one days after the thirtieth of June and the thirty-first of December in every year the certificates of competency which the master (*q*), mates, and engineers of the ship are by this Act required to hold (*t*).

(3.) Upon the production of the certificates of competency, the superintendent (*s*) shall, if the certificates are such as the master (*q*), mates, and engineers of the ship ought to hold (*t*), give to the master (*q*) a certificate to the effect that the proper certificates of competency have been so produced.

(4.) The master (*q*) shall, before proceeding to sea, produce the superintendent's (*s*) certificate (*y*) to the chief officer of customs (*q*), and the ship may be detained (*z*) until the certificate is produced.

(*q*) Defined, § 742.

(*r*) § 113.

(*s*) Cf. §§ 247, 742.

(*t*) § 92.

(*u*) § 115, s. 5.

(*x*) Note to § 58.

(*y*) Sub-a. 3.

(*z*) § 692.

Forgery,
&c., of cer-
tificate of
compe-
tency.
1854, s.
140.
1862, s. 10.

104. If any person—

- (a.) forges or fraudulently alters, or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered, any certificate of competency, or an official copy of any such certificate; or
- (b.) makes, assists in making, or procures to be made, any false representation for the purpose of procuring either for himself or for any other person a certificate of competency; or
- (c.) fraudulently uses a certificate or copy of a certificate of competency which has been forged, altered, cancelled or suspended, or to which he is not entitled; or
- (d.) fraudulently lends his certificate of competency or allows it to be used by any other person,

that person shall in respect of each offence be guilty of a misdemeanor (a).

*Appren-
ticeship to
the Sea
Service.*

Assistance
given by
superin-
tendents
as to ap-
prentice-
ship.
1854, s.
141.

Apprenticeship to the Sea Service.

105. All superintendents (b) shall give to persons desirous of apprenticing boys to or requiring apprentices for the sea service, such assistance as may be in their power, and may receive from those persons such fees as the Board of Trade fix, with the concurrence, so far as relates to pauper apprentices in England, of the Local Government Board, and so far as relates to pauper apprentices in Ireland, of the Local Government Board for Ireland.

Appren-
ticeships
of paupers
in Great
Britain
and Ire-
land.
1854, s.
144.

106. Subject to the special provisions of this Act (c), apprenticeships to the sea service made by a board of guardians (d) or persons having the authority of a board of guardians shall, if made in Great Britain, be made in the same manner and be subject to the same laws and regulations as other apprenticeships made by such boards or persons (e); and if made in Ireland, be subject to the following regulations:

(a.) The board of guardians (d) or other persons (f) in any

(a) Procedure, §§ 680-684; fines how applicable, §§ 699, 716.

(b) Cf. §§ 247, 742.

(c) § 107.

(d) Int. Act, 1889, § 16.

(e) See 4 & 5 Will. IV. c. 76; 7 & 8 Vict. c. 101; and Archbold's Poor Law; Burn's Justice, title Poor; Chitty's Statutes, title Poor.

(f) There is apparently some

poor law union (*g*) may put out and bind as apprentice to the sea service any boy who, or whose parent, is receiving relief in the union, and who has attained the age of twelve years, and is of sufficient health and strength, and consents to be bound :

- (*b*.) If the cost of relieving the boy is chargeable to an electoral division of a poor law union (*g*), then (except where paid officers act in place of guardians) he shall not be so bound unless the consent in writing of the guardians of that division, or of a majority of them, if more than one, is first obtained, and that consent shall, if possible, be endorsed on the indenture :
- (*c*.) The expenses incurred in the binding and outfit of any such apprentice shall be charged to the poor law union (*g*) or electoral division, as the case may be, to which the boy or his parent is chargeable at the time of his being apprenticed :
- (*d*.) All indentures made in a poor law union (*g*) may be sued on by the board of guardians (*h*) of the union, or persons having the authority of such board, by their name of office ; and actions so brought shall not abate by reason of any death or change in the persons holding office, but such an action shall not be commenced without the consent of the Local Government Board for Ireland :
- (*e*.) The amount of the costs incurred in any such action, and not recovered from the defendant, may be charged as the expenses incurred in binding out the apprentice (*i*).

107. Every indenture of apprenticeship to the sea service made in the United Kingdom by a board of guardians (*g*), or persons having the authority of a board of guardians, shall be executed (*k*) by the boy and the person to whom he is bound in the presence of and shall be attested by two

Attestation of pauper apprenticeship. 1854, s. 142.

omission here; the] old Act (1854, s. 144) runs, "or other persons duly appointed to carry into execution the Acts for the relief of the destitute poor, and having the authority of

guardians of the poor."

(*g*) Int. Act, 1889, § 16, s. 2.

(*h*) Ibid. § 16.

(*i*) Sub-s. (*c*).

(*k*) § 108.

justices of the peace (*l*), and those justices shall ascertain that the boy has consented to be bound and has attained the age of twelve years and is of sufficient health and strength, and that the person to whom the boy is bound is a proper person for the purpose (*l*).

Special provisions as to apprenticeship to the sea service. 1854, s. 143.

108.—(1.) Every indenture of apprenticeship (*m*) to the sea service (*n*) shall be executed in duplicate and shall be exempt from stamp duty.

(2.) Every indenture of apprenticeship to the sea service, made in the United Kingdom, and every assignment or cancellation thereof, and, where the apprentice bound dies or deserts, the fact of the death or desertion, shall be recorded.

(3.) For the purpose of the record—

(a.) a person to whom an apprentice to the sea service is bound shall within seven days of the execution of the indenture take or transmit to the Registrar-General of Shipping and Seamen (*o*), or to a superintendent (*p*), the indenture executed in duplicate, and the Registrar-General or superintendent shall keep and record the one indenture and endorse on the other the fact that it has been recorded and re-deliver it to the master of the apprentice (*q*);

(b.) the master shall notify any assignment or cancellation of the indenture, or the death or desertion of the apprentice, to the Registrar-General of Shipping and Seamen (*o*), or to a superintendent (*p*), within seven days of the occurrence, if it occurs within the United Kingdom; or, as soon as circumstances permit, if it occurs elsewhere.

(4.) If any person fails (*r*) to comply with any require-

(*l*) This being a judicial Act (*Queen v. Totness* (1849), 11 Q. B. 80), the two justices must be present together to perform it. *R. v. Hamstall* (1789), 3 T. R. 380.

(*m*) May be rescinded. See § 168.

(*n*) Every indenture of apprenticeship implies a warranty of seaworthi-

ness of the ship on which the apprentice is bound to serve (§ 458, s. 1).

(*o*) § 251.

(*p*) Cf. §§ 247, 742.

(*q*) The superintendent shall transmit the indenture to the Registrar-General (§ 256, s. 1).

(*r*) Includes "refuses;" § 742.

ment of this section, he shall for each offence be liable to a fine (s) not exceeding ten pounds (t).

109.—(1.) The master(u) of a foreign-going ship(u) shall, before carrying an apprentice to sea from a port(u) in the United Kingdom, cause the apprentice to appear before the superintendent (x) before whom the crew are engaged, and shall produce to the superintendent the indenture by which the apprentice is bound (y), and every assignment thereof.

Production of indentures to superintendent before voyage in foreign-going ship. 1854, s. 145.

(2.) The name of the apprentice, with the date of the indenture and of the assignments thereof, if any, and the names of the ports at which the same have been registered (z), shall be entered on the agreement with the crew (a).

(8.) If the master fails (b) without reasonable cause to comply with any requirement of this section he shall for each offence be liable to a fine not exceeding five pounds (t).

Licences to supply Seamen(c).

Licences to supply Seamen.

110. The Board of Trade may grant to such persons (d) as the Board think fit licences to engage or supply seamen (u) or apprentices for merchant ships (u) in the United Kingdom, and any such licence shall continue for such period, and may be granted and revoked on such terms and conditions as the Board think proper.

—
Licence for supply of seamen. 1854, s. 146.

111.—(1.) A person (d) shall not engage or supply a seaman (u) or apprentice to be entered on board any ship (u) in the United Kingdom, unless that person either holds a licence from the Board of Trade for the purpose, or is

Penalty for engaging seamen without licence. 1854, s. 147.

(s) This fine cannot be claimed in a civil proceeding for wages in the Admiralty Court. *The Albert Crosby* (1860), Lush, 44.

(t) For mode of recovery, see §§ 680-684; application of fine, §§ 699, 716.

(u) Defined, § 742.

(z) Cf. §§ 247, 742.

(y) § 108.

(z) Sub-a. 1.

(a) § 113.

(b) Includes "refuses;" § 742.

(c) This part does not apply to lighthouse ships, pleasure yachts, or most fishing-boats. See §§ 262, 263.

(d) Int. Act, 1889, §§ 2, 19. A vexed political question is whether the Shipping Federation is within this clause.

the owner (*e*) or master (*f*) or mate of the ship (*f*), or is bonâ fide the servant and in the constant employment of the owner (*e*), or is a superintendent (*g*).

(2.) A person shall not employ for the purpose of engaging or supplying a seaman (*f*) or apprentice to be entered on board any ship (*f*) in the United Kingdom any person (*h*), unless that person either holds a licence from the Board of Trade for the purpose, or is the owner (*e*) or master (*f*) or mate of the ship, or is bonâ fide the servant and in the constant employment of the owner (*e*), or is a superintendent (*g*).

(3.) A person (*h*) shall not receive or accept to be entered on board any ship any seaman (*f*) or apprentice, if that person knows that the seaman (*f*) or apprentice has been engaged or supplied in contravention of this section (*i*).

(4.) If a person (*h*) acts in contravention of this section (*k*), he shall for each seaman (*f*) or apprentice in respect of whom an offence is committed, be liable to a fine not exceeding twenty pounds (*l*), and, if a licensed person (*m*), shall forfeit his licence.

Penalty
for re-
ceiving
remunera-
tion from
seamen for
engage-
ment.
1854, s.
148.

112.—(1.) A person (*n*) shall not demand or receive directly or indirectly from a seaman (*f*) or apprentice to the sea service, or from a person seeking employment as a seaman (*f*) or apprentice to the sea service, or from a person on his behalf, any remuneration whatever for providing him with employment other than any fees authorized by this Act (*o*).

(*e*) Includes a person who has an equitable unregistered interest in the ship, or a charterer by demise. *Hughes v. Sutherland* (1881), 7 Q. B. D. 160. Such a person, being liable as owner (see § 58), is also exempt as owner.

(*f*) Defined, § 742.

(*g*) Cf. §§ 247, 742.

(*h*) See note (*d*), p. 93.

(*i*) Sub-a. 1.

(*k*) The burden of proving that he has a licence lies on the person charged. *Reg. v. Johnston* (1886), 6 Asp. M. C. 14; cf. 42 & 43 Vict.

c. 49, § 39.

(*l*) For mode of recovery, see §§ 680-684; application of fine, §§ 699, 716.

(*m*) § 110.

(*n*) Int. Act, 1889, §§ 2, 19.

(*o*) This appears to refer to § 250, prohibiting the taking of any fees at a mercantile marine office, except those provided by any Act, or authorized by the Board of Trade. There is no express power given to the Board of Trade to fix fees, but this section and § 713 seem to imply such a power.

(2.) If a person (*p*) acts in contravention of this section, he shall for each offence be liable to a fine not exceeding five pounds (*q*).

Engagement of Seamen (r).

*Engage-
ment of
Seamen.*

113.—(1.) The master (*s*) of every ship (*t*), except ships (*t*) of less than eighty tons registered tonnage exclusively employed in trading between different ports (*t*) on the coasts of the United Kingdom, shall enter into an agree-ment (in this Act called the agreement with the crew (*u*)) in accordance with this Act (*x*) with every seaman (*t*) whom he carries to sea as one of his crew (*y*) from any port (*t*) in the United Kingdom.

Agree-
ments with
crew.
1854, ss.
149, 157.

(2.) If a master (*t*) of a ship (*t*) carries any seaman (*t*) to sea without entering into an agreement with him in accordance with this Act (*x*), the master (*t*) in the case of a foreign-going ship (*t*), and the master (*t*) or owner (*s*) in the case of a home-trade ship (*t*), shall for each offence be liable to a fine not exceeding five pounds (*q*).

(*p*) Int. Act, 1889, §§ 2, 19.

(*q*) For mode of recovery, see §§ 680-684; application of fine, §§ 690, 716.

(*r*) As to application of this Part, see §§ 261-263, and Preliminary Note to Part II.

(*s*) Includes person equitably interested; § 58.

(*t*) Defined, § 742.

(*u*) "Seaman" is defined in § 742 to include "every person except masters, pilots, and apprentices, duly indentured and registered, employed or engaged in any capacity on board a ship." There are, therefore, seamen who never go to sea, as storekeepers, stevedores, etc. (cf. *Thomson v. Hart* (1890), 18 Sc. Sess. Cases, 4th series, Just. 3). The only seamen, therefore, who sign the "agreement with the crew" are "those carried to sea as members of the crew" (§ 113).

The "master" is usually distinguished from the "crew" (cf. the sections from § 260 on), but in the

list of the crew (§ 254) the crew are treated as "including the master and apprentices." The apprentices do not sign the agreement with the crew, not being seamen, but their names and particulars of their apprenticeship are entered on the agreement (cf. § 109), and in § 240, s. 7, they are treated as members of the crew.

"Crew" appears, therefore, to include all officers, seamen, and apprentices taken to sea, and sometimes, though not usually, the master.

A. B. is defined in § 126.

(*x*) § 114.

(*y*) The agreement need only be entered into when or before the ship goes to sea. "Seamen" may be orally engaged to do work on the ship before she goes to sea, without such an agreement with the crew, and may enforce their lien on the ship for wages due under such oral agreement, the ship not, in fact, going to sea at all. *Re Great Eastern S.S. Co.* (1885), 5 Asp. M. C. 511.

Form,
period,
and con-
ditions of
agree-
ments
with crew.
1854, s.
149,
36 & 37
Vict. c. 85,
s. 7.

114.—(1.) An agreement with the crew (z) shall be in a form approved by the Board of Trade, and shall be dated at the time of the first signature (a) thereof, and shall be signed by the master (b) before a seaman (c) signs the same (d).

(2.) The agreement with the crew (s) shall contain as terms thereof the following particulars (e) :—

- (a.) either the nature (f), and, as far as practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement and the places or parts of the world, if any, to which the voyage or engagement is not to extend :
- (b.) the number and description of the crew (g), specifying how many are engaged as sailors :
- (c.) the time at which each seaman (c) is to be on board or to begin work :

(s) § 113.

(a) i.e. the master's.

(b) Whether owner's or charterer's master appears immaterial, as regards the seaman's lien on the ship. *Re Great Eastern S.S. Co.* (1885), 5 Asp. M. C. 511.

(c) Defined, § 742.

(d) Before a seaman signs, the master must also enter in the agreement certain particulars as to the load-line; § 440, s. 3.

(e) It must contain any stipulations for allotment of wages (§ 140); it also contains an implied warranty of the ship's seaworthiness (see § 458, s. 1). Endorsements during the voyage are provided for in respect of engagement and discharge of seamen, § 115, s. 7; the same abroad, § 124, 1 (c.); report of character, § 129, s. 1; the property of deceased seamen, § 170, s. 2; particulars in respect of seamen discharged abroad and their wages, §§ 186, s. 3; 189, s. 4; sending home distressed seamen, § 191, s. 3; and see generally, § 257. The provisions in this and the preceding section are in favour of the seaman. *Re Great Eastern S.S. Co.*, *ubi supra*; and a construction favourable to the seaman is generally adopted. See *The Nonpareil* (1864), Br. & L. 355.

(f) The object of requiring this to

be described is to give the seaman a fair intimation of the nature of the service in which by signing he is about to engage himself. Per Dr. Lushington, in *The Westmorland* (1841), 1 W. Rob. at p. 228. In that case the material words were "until her return to a port of discharge in Great Britain or Continent of Europe (in either case the voyage to end in Great Britain)." Dr. Lushington considered this too wide, the actual voyage proposing to call at Cowes for orders, which were given for Rotterdam. A similar view was taken by Lord Stowell, on the earlier words, "the voyage," in *The Minerva* (1825), 1 Hagg. 347; *The George Home* (1825), *ibid.* 370. The voyage may be described in the alternative; i.e. for a specified voyage, or for a specified time, and the agreement may provide for transfer to another vessel in the same employ. *Fraser v. Hatton* (1857), 2 C. B. N. S. 512.

(g) If this number during the voyage falls below that mentioned in the articles, this will not discharge the seamen: *Harris v. Watson* (1791), 1 Peake, 102; *Stilk v. Myrick* (1809), 2 Camp. 317; *The Araminta* (1854), 18 Jur. 793; *Harris v. Carter* (1854), 3 E. & B. 559; unless the ship is so short-handed that to pro-

- (d.) the capacity in which each seaman (*h*) is to serve (*i*):
- (e.) the amount of wages which each seaman (*h*) is to receive (*i*):
- (f.) a scale of the provisions which are to be furnished to each seaman (*h*):
- (g.) any regulations as to conduct on board, and as to fines, short allowances of provisions, or other lawful punishment for misconduct which have been approved by the Board of Trade as regulations proper to be adopted, and which the parties agree to adopt.

(3.) The agreement with the crew (*k*) shall be so framed as to admit of such stipulations, to be adopted at the will of the master (*h*) and seaman (*h*) in each case, whether respecting the advance and allotment of wages (*l*) or otherwise, as are not contrary to law (*m*).

(4.) If the master (*h*) of a ship (*h*) registered (*n*) at a port (*h*) out of the United Kingdom has an agreement with the crew (*k*) made in due form according to the law of that port or of the port (*h*) in which her crew were engaged, and engages single seamen (*h*) in the United Kingdom, those seamen may sign the agreement so made, and it shall not then be necessary for them to sign an agreement in the form approved by the Board of Trade (*o*).

ceed on the voyage is dangerous, and additional hands cannot be procured: *Hartley v. Ponsonby* (1857), 26 L. J. Q. B. 322, where an agreement between the captain of a vessel in such a position and seamen, that they should proceed at higher wages, was upheld, there being consideration for it, as they were not bound to proceed.

(h) Defined, § 742.

(i) Though usually a fresh agreement by which the seaman is to get higher wages than those stated in the articles cannot be upheld, there being no consideration (see note (*g*), *ante*; and *Frazer v. Halton* (1857), 2 C. B. N. S., 512), yet in cases where the seaman's position and duties are changed during the voyage, the agreement may be varied. Thus in *Hanson v. Royden* (1867), L. R. 3

C. P. 47, a seaman, employed to act as second mate in consequence of the death of the captain, obtained second mate's wages; and in *The Providence* (1825), 1 Hag. 391, the chief mate was allowed captain's wages under similar circumstances. So also in *The Highland Chief* (1892), P. 76, the Court thought that the master could disrate an officer on the agreement with the crew, for misconduct, and that his wages would be thereupon reduced, such reduction being neither a forfeiture nor a deduction (cf. § 133).

(k) § 113.

(l) §§ 140-144.

(m) For stipulations contrary to law, see § 156, s. 1; § 193, s. 2; § 458, s. 1.

(n) Cf. § 4.

(o) See sub-s. 1.

Special provisions as to agreements with crew of foreign-going ships. 1854, ss. 150-154.

115. The following provisions shall have effect with respect to the agreements with the crew (*p*) made in the United Kingdom in the case of foreign-going ships (*q*) registered either within or without the United Kingdom :—

- (1.) The agreement shall (subject to the provisions of this Act as to substitutes) (*r*) be signed by each seaman (*q*) in the presence of a superintendent (*s*) :
- (2.) The superintendent (*s*) shall cause the agreement to be read over and explained to each seaman (*q*), or otherwise ascertain that each seaman (*q*) understands the same before he signs it, and shall attest each signature (*t*) :
- (3.) When the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the superintendent (*s*), and the other shall be delivered to the master (*q*), and shall contain a special place or form for the descriptions and signatures of substitutes (*r*) or persons engaged subsequently to the first departure of the ship :
- (4.) Where a substitute is engaged in the place of a seaman (*q*) who duly signed the agreement, and whose services are within twenty-four hours of the ship's putting to sea lost by death, desertion, or other unforeseen cause, the engagement shall, when practicable, be made before a superintendent (*u*), and, when not practicable, the master (*q*) shall, before the ship (*q*) puts to sea, if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to the substitute, and the substitute shall thereupon sign the same in the presence of a witness, and the witness shall attest the signature (*t*) :
- (5.) The agreements may be made for a voyage, or if the voyages of the ship (*q*) average less than six months in duration may be made to extend over two or more voyages, and agreements so made to extend over two

(*p*) § 113.

(*q*) Defined, § 742.

(*r*) Sub-s. 4.

(*s*) Cf. §§ 247, 742. The superintendent shall transmit his part to

the Registrar-General (§ 251); see § 256.

(*t*) As to proof, see § 694.

(*u*) Cf. §§ 247, 742.

or more voyages are in this Act referred to as running agreements :

- (6.) Running agreements (*y*) shall not extend beyond the next following thirtieth day of June or thirty-first day of December, or the first arrival of the ship at her port (*z*) of destination in the United Kingdom after that date, or the discharge of cargo consequent on that arrival :
- (7.) On every return to a port (*z*) in the United Kingdom before the final termination of a running agreement (*y*), the master (*z*) shall make on the agreement an endorsement as to the engagement or discharge of seamen, either that no engagements or discharges have been made, or are intended to be made before the ship leaves port, or that all those made have been made as required by law (*a*), and if a master (*z*) wilfully makes a false statement in any such endorsement, he shall for each offence be liable to a fine not exceeding twenty pounds (*b*) :
- (8.) The master (*z*) shall deliver the running agreement (*y*) so endorsed to the superintendent (*c*), and the superintendent (*c*) shall, if the provisions of this Act relating to agreements have been complied with (*d*), sign the endorsement and return the agreement to the master (*z*) :
- (9.) The duplicate (*e*) running agreement (*y*) retained by the superintendent (*c*) on the first engagement of the crew shall either be transmitted to the Registrar-General of Shipping and Seamen (*f*) immediately, or kept by the superintendent (*c*) until the expiration of the agreement, as the Board of Trade direct (*g*).

116. The following provisions shall have effect with Special respect to the agreements with the crew (*h*) of home trade provisions as to

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|--|---|
| (<i>y</i>) § 115, s. 5. | (<i>d</i>) §§ 114, 115. |
| (<i>z</i>) Defined, § 742. | (<i>e</i>) Sub-s. 3. |
| (<i>a</i>) Engagements, §§ 114, 115; | (<i>f</i>) § 251. |
| discharges, §§ 127-129. | (<i>g</i>) When it shall be transmitted |
| (<i>b</i>) Mode of recovery, see §§ 680-684; application of fine, §§ 690, 716. | to the Registrar-General (§ 256). |
| (<i>c</i>) Cf. §§ 247, 742. | (<i>h</i>) § 113. |

agreements
with crew
of home-
trade
ships.
1854, ss.
155, 156.
162.
35 & 36
Vict. c. 73,
s. 16.

ships (*i*) for which an agreement with the crew is required under this Act (*k*) :—

- (1.) Agreements may be made either for service in a particular ship (*i*) or for service in two or more ships (*i*) belonging to the same owner, but in the latter case the names of the ships and the nature of the service shall be specified in the agreement.
- (2.) Crews or single seamen (*i*) may, if the master (*i*) think fit, be engaged before a superintendent (*l*) in the same manner as they are required (*m*) to be engaged for foreign-going ships (*i*), but if the engagement is not so made, the master (*i*) shall, before the ship (*i*) puts to sea, if practicable, and if not, as soon after as possible, cause the agreement to be read and explained to each seaman (*i*), and the seaman (*i*) shall thereupon sign the same in the presence of a witness, and the witness shall attest the signature (*n*).
- (3.) An agreement for service in two or more ships belonging to the same owner may be made by the owner (*o*) instead of by the master (*i*); and the provisions of this Act with respect to the making of the agreement shall apply accordingly (*p*).
- (4.) Agreements shall not, in the case of ships (*i*) of more than eighty tons burden (*q*), extend beyond the next following thirtieth day of June or thirty-first day of December or the first arrival of the ship (*i*) at her final port (*i*) of destination in the United Kingdom after that date or the discharge of cargo consequent on that arrival: Provided that the owner or his agent may enter into time agreements in forms sanctioned by the Board of Trade with individual seamen (*i*) to serve in any one or more ships (*i*) belonging to such owner, and those agreements need not expire on the thirtieth

(*i*) Defined, § 742.

(*k*) Ships of 80 tons register and over; see § 113, and note (*q*) *sub*.

(*l*) Cf. §§ 247, 742.

(*m*) By § 115.

(*n*) As to proof, see § 694.

(*o*) Notes to § 58.

(*p*) §§ 114–116.

(*q*) A ship of 80 tons register or burden requires an agreement with the crew under § 113, but is exempt from the provisions of this subsection.

day of June or the thirty-first day of December, and a duplicate of every such agreement shall be forwarded to the Registrar-General of Shipping and Seamen (*r*) within forty-eight hours after it has been entered into.

117.—(1.) The master (*s*) of every foreign-going ship (*s*) whose crew has been engaged before a superintendent (*t*) shall, before finally leaving the United Kingdom, sign, and send to the nearest superintendent (*t*), a full and accurate statement, in a form approved by the Board of Trade, of every change which takes place in his crew before finally leaving the United Kingdom (*u*), and that statement shall be admissible in evidence in manner provided by this Act (*x*).

Changes in crew of foreign-going ship to be reported. 1854, s. 158.

(2.) If a master (*s*) fails (*y*) without reasonable cause to comply with this section, he shall for each offence be liable to a fine not exceeding five pounds (*z*).

118.—(1.) In the case of a foreign-going ship (*s*), on the due execution of an agreement with the crew in accordance with this Act (*a*), and also, where the agreement is a running agreement (*b*), on compliance by the master (*s*), before the second and every subsequent voyage made after the first commencement of the agreement, with the provisions of this Act respecting that agreement (*b*), the superintendent (*t*) shall grant the master (*s*) of the ship (*s*) a certificate to that effect.

Certificate as to agreements with crew of foreign-going ships. 1854, s. 161.

(2.) The master (*s*) of every foreign-going ship (*s*) shall, before proceeding to sea, produce to the officer of customs that certificate, and any such ship (*s*) may be detained (*c*) until the certificate is produced.

(3.) The master (*s*) of every foreign-going ship (*s*) shall, within forty-eight hours after the ship's (*s*) arrival at her final port (*s*) of destination in the United Kingdom or

(*r*) § 251.

(*s*) Defined, § 742.

(*t*) Cf. §§ 247, 742.

(*u*) Under § 256 the superintendent shall transmit it to (§ 251) the Registrar-General.

(*x*) In § 695.

(*y*) By § 742, includes "refusal."

(*z*) Mode of recovery, see §§ 680-684; application of fine, §§ 699, 716.

(*a*) §§ 114-116.

(*b*) § 115, ss. 5-9.

(*c*) For method of detention, see § 692.

upon the discharge of the crew, whichever first happens, deliver his agreement with the crew (*d*) to the superintendent (*e*), and the superintendent (*e*) shall give the master (*f*) a certificate of that delivery; and an officer of customs shall not clear the ship inwards until the certificate of delivery is produced, and if the master (*f*) fails (*g*) without reasonable cause so to deliver the agreement with the crew (*d*), he shall for each offence be liable to a fine not exceeding five pounds (*h*).

Certificate
as to
agreement
with crew
of home-
trade
ships.
1854, s.
162.

119.—(1.) The master (*f*) or owner of a home-trade ship (*f*) of more than eighty tons burden (*i*) shall within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year deliver or transmit to a superintendent (*e*) in the United Kingdom every agreement with the crew (*d*) made for the ship (*f*) within six months next preceding those days respectively.

(2.) The superintendent (*e*) on receiving the agreement shall give the master (*f*) or owner of the ship a certificate to that effect, and the ship shall be detained (*k*) unless the certificate is produced to the proper officer of customs.

(3.) If the master (*f*) or owner (*l*) fails (*g*) without reasonable cause to comply with this section, he shall for each offence be liable to a fine not exceeding five pounds (*h*).

Copy of
agreement
to be made
accessible
to crew.
1854, s.
166.

120.—(1.) The master (*f*) shall at the commencement of every voyage or engagement cause a legible copy of the agreement with the crew (*d*), (omitting the signatures,) to be posted up in some part of the ship which is accessible to the crew.

(2.) If the master (*f*) fails (*g*) without reasonable cause to comply with this section, he shall for each offence be liable to a fine not exceeding five pounds (*h*).

Forgery,
&c., of

121. If any person fraudulently alters, makes any false

(*d*) § 113.

(*e*) Cf. §§ 247, 742.

(*f*) Defined, § 742.

(*g*) By § 742, includes "refusal."

(*h*) Mode of recovery, see §§ 680-684; application of fine, §§ 699, 716.

(*i*) A ship of 80 tons must have

an agreement with the crew under § 113, but under this section need not transmit it.

(*k*) For method of detention, see § 692.

(*l*) Includes persons having an equitable interest (see § 58).

entry in, or delivers a false copy of, any agreement with the crew (*m*), that person shall in respect of each offence be guilty of a misdemeanor, and if any person assists in committing or procures to be committed any such offence, he shall likewise in respect of each offence be guilty of a misdemeanor (*n*).

agreements with crew. 1854, s. 164.

122. Every erasure, interlineation, or alteration in any agreement with the crew (*m*) (except additions made for the purpose of shipping substitutes (*o*) or persons engaged after the first departure of the ship) shall be wholly inoperative (*p*), unless proved to have been made with the consent of all the persons interested in the erasure, interlineation, or alteration, by the written attestation (*q*) (if in Her Majesty's dominions) of some superintendent (*r*), justice, officer of customs, or other public functionary, or elsewhere, of a British consular officer (*s*), or where there is no such officer, of two respectable British merchants.

Alterations in agreements with crew. 1854, s. 163.

123. In any legal or other proceeding a seaman (*t*) may bring forward evidence to prove the contents of any agreement with the crew (*m*) or otherwise to support his case (*u*), without producing, or giving notice to produce the agreement or any copy thereof.

Seamen not to be bound to produce agreement. 1854, s. 165.

124.—(1.) With respect to the engagement of seamen (*t*) abroad, the following provisions shall have effect:—

Engagement of seamen in colonial and foreign ports. 1854, ss. 159, 160.

Where the master (*t*) of a ship (*t*) engages a seaman (*t*) in any British possession (*x*) other than that in which the ship is registered or at a port (*t*) in which there is a

(*m*) § 118.

(*n*) Procedure, see §§ 680-684; application of fine, §§ 699, 716.

(*o*) § 115, s. 4.

(*p*) Applied in *The Salburn* (1894), 6 R. 54, to invalidate a stamped addition to the agreement with the crew, not proved to have been added with their consent. In this case also a column of the agreement, filled up after the crew signed, was rejected.

(*q*) As to proof, see § 694.

(*r*) Cf. §§ 247, 742.

(*s*) Int. Act, 1889, § 12, s. 20.

(*t*) Defined, § 742.

(*u*) Usages or oral agreements not in the written agreement cannot be proved:—*Elsworth v. Woolmore* (1803), 5 Esp. 84; *The Isabella* (1799), 2 C. Rob. 241; but see *The Nonpareil* (1864), Br. & L. 355, where evidence of English usage as to the exchange value of a dollar was admitted. For an oral agreement, where agreement with crew never signed, see *Re Great Eastern S.S. Co.* (1885), 5 Asp. M. C. 511.

(*x*) Int. Act, 1889, § 18, s. 2.

British consular officer (*y*), the provisions of this Act respecting agreements with the crew made in the United Kingdom (*z*) shall apply subject to the following modifications:—

- (a.) in any such British possession (*a*) the master (*b*) shall engage the seaman (*b*) before some officer being either a superintendent (*c*) or, if there is no such superintendent, an officer of customs;
- (b.) at any port (*b*) having a British consular officer (*y*), the master (*b*) shall, before carrying the seaman (*b*) to sea, procure the sanction of the consular officer (*y*), and shall engage the seaman (*b*) before that officer;
- (c.) the officer shall endorse upon the agreement an attestation (*d*) to the effect that the agreement has been signed in his presence and otherwise made as required by this Act (*z*), and also, if the officer is a British consular officer (*y*), that it has his sanction, and if the attestation is not made, the burden of proving that the engagement was made as required by this Act shall lie upon the master (*b*).

(2.) If a master (*b*) fails (*e*) to comply with this section he shall be liable for each offence to a fine not exceeding five pounds (*f*).

Agreements with Lascars.

Agreements with
lascars.
1854, s.
544.
18 & 19
Vict. c. 91,
s. 23, 24.
† Geo. IV.
c. 80, ss.
27, 28.

125.—(1.) The master (*b*) or owner (*g*) of any ship, or his agent, may enter into an agreement with a lascar, or any native of India (*h*), binding him to proceed either as a seaman (*b*) or as a passenger (*i*):—

- (a.) to any port (*b*) in the United Kingdom, and there to enter into a further agreement to serve as a seaman (*b*) in any ship (*b*) which may happen to be there, and to be bound to any port (*b*) in British India (*h*); or

(*y*) Int. Act, 1889, § 12, s. 20.

(*z*) §§ 113–123.

(*a*) Int. Act, 1889, § 18, s. 2.

(*b*) Defined, § 742.

(*c*) Cf. §§ 247, 742.

(*d*) How proved, see § 694.

(*e*) Includes refusal, § 742

(*f*) How recovered, see §§ 680–684; how applicable, §§ 699, 716.

(*g*) Includes persons with equitable interests, § 58.

(*h*) Defined, Int. Act, 1889, § 18, s. 4.

(*i*) Cf. § 267.

(b.) to any port (*k*) in the Australian colonies (*l*), and there to enter into a further agreement to serve as a seaman (*k*) in any ship (*k*) which may happen to be there, and to be bound to the United Kingdom or to any part of Her Majesty's dominions.

(2.) The original agreement shall be made in such form, and contain such provisions, and be executed in such manner, and contain such conditions for securing the return of the lascar or native to his own country and for other purposes, as the Governor-General of India in Council or the Governor in Council of any Indian Presidency in which the agreement is made may direct.

(3.) Where any lascar or native bound by the original agreement is, on arriving in the United Kingdom or one of the said colonies (*l*), as the case may be, required to enter into such further agreement as aforesaid, some officer appointed for the purpose in the United Kingdom by a Secretary of State (*m*) in Council of India, or in any such colony by the Governor (*n*) of the colony (*l*), may, on the payment of such fee not exceeding ten shillings, as a Secretary of State (*m*) in Council of India or the Governor (*n*) may direct, certify,—

(a.) that the further agreement is a proper agreement in all respects for the lascar or native to make, and is in accordance with the original agreement; and

(b.) that the ship (*k*) to which the further agreement relates is in all respects a proper ship for the lascar or native to serve in and also where the ship is in one of the said Australian colonies (*l*), that it is properly supplied with provisions; and

(c.) that there is not, in his opinion, any objection to the full performance of the original agreement;

and thereupon the lascar or native shall be deemed to be engaged under the further agreement and to be for all purposes one of the crew of the ship (*k*) to which it relates, and the lascar or native shall, notwithstanding a refusal

(*k*) Defined, § 742.

(*l*) "Colony" defined, Int. Act, 1889, § 18, s. 3.

(*m*) Int. Act, 1889, § 12, s. 3.

(*n*) Ibid. § 18, s. 6.

to enter into the further agreement, be liable to the same consequences, and be dealt with in all respects in the same manner, as if he had voluntarily entered into the same.

(4.) The master (o) of every ship (o) arriving at a port (o) in the United Kingdom, which has or during any part of her voyage has had on board a lascar or any native of India (p) either as one of her crew or otherwise, shall exhibit to the officer of customs, or to such person as the Board of Trade may authorize in that behalf, a statement containing a list and description of all lascars or natives of India (p) who are, or have been, so on board, and an account of what has become of any lascar or native of India (p) who at any time during the voyage has been, but is not then, on board, and the ship shall not be cleared inwards until the statement is exhibited, and if the master (o) fails (q) to exhibit such statement he and the owner (r) of the ship (o) shall be liable jointly and severally to a fine not exceeding ten pounds (s) for every lascar or native of India (p) in respect of whom the failure (q) takes place.

4 Geo. IV.
c. 80.

(5.) Nothing in this section shall affect any provisions which are unrepealed (t) of the Act of the fourth year of the reign of King George the Fourth, chapter eighty, intituled, "An Act to consolidate and amend the several laws now in force with respect to trade within the limits of the charter of the East India Company, and to make further provision with respect to such trade."

Rating of Seamen.

Rating of
seamen.
43 & 44
Vict. c. 16,
s. 7.

126.—(1.) A seaman (o) shall not be entitled to the rating of A.B., that is to say, of an able-bodied seaman (u), unless

- (o) Defined, § 742.
- (p) Defined, Int. Act, 1889, § 18, s. 4.
- (q) Includes refusal, § 742.
- (r) Includes persons with equitable interests; § 58.
- (s) How recovered, see §§ 680-684; how applicable, §§ 690, 716.
- (t) Very little of this Act is unrepealed. Sections 1-24 were repealed by 36 & 37 Vict. c. 91. Sec-

tions 29, 30 were repealed as to England by 47 & 48 Vict. c. 43. Sections 27, part of 28, and 34, are repealed by the 22nd schedule to this Act. Sections 25, 26, part of 28, 29, and 30 in part, 31, 32, and 33, remain in force, except in so far as repealed by 3 & 4 Will. IV. c. 93, § 1.

(u) This does not affect ratings obtained before August 2, 1880. See § 746, s. 3.

he has served at sea for four years before the mast, but the employment of fishermen in decked fishing-vessels (*x*) registered under the first part of this Act (*y*) shall only count as sea service up to the period of three years of that employment; and the rating of A.B. shall only be granted after at least one year's sea service in a trading vessel in addition to three or more years' sea service on board of decked fishing vessels so registered (*y*).

(2.) The service may be proved by certificates of discharge (*z*), by a certificate of service from the Registrar-General of Shipping and Seamen (*a*) (granted by the Registrar on payment of a fee not exceeding sixpence), specifying in each case whether the service was rendered in whole or in part in steam ship (*b*) or in sailing ship, or by other satisfactory proof.

Discharge of Seamen (c).

127.—(1.) When a seaman (*d*) serving in a British (*e*) foreign-going ship (*d*), whether registered within or without the United Kingdom, is on the termination of his engagement discharged in the United Kingdom, he shall, whether the agreement with the crew (*f*) be an agreement for the voyage (*g*) or a running agreement (*g*), be discharged in manner provided by this Act (*h*) in the presence of a superintendent (*i*).

*Discharge
of Seamen*

Discharge
before
super-
intendent.
1854, ss.
151, 152,
170.

(2.) If the master (*d*) or owner (*k*) of a ship (*d*) acts in contravention of this section, he shall for each offence be liable to a fine not exceeding ten pounds (*l*).

(3.) If the master (*d*) or owner (*k*) of a home-trade ship (*d*) so desire, the seamen (*d*) of that ship may be discharged in the same manner (*h*) as seamen discharged from a foreign-going ship (*d*).

(*x*) Cf. definition of fishing-boat for purposes of Part IV., § 370.

(*y*) Cf. § 3.

(*z*) § 128.

(*a*) § 251; cf. § 256.

(*b*) See § 743.

(*c*) For application of this part, see §§ 261–263, and Preliminary Note to this Part.

(*d*) Defined, § 742.

(*e*) As to "British ship," see note to § 1.

(*f*) § 113.

(*g*) § 115, s. 5.

(*h*) §§ 128, 129.

(*i*) Cf. §§ 247, 742.

(*k*) Includes persons with equitable interests; § 58.

(*l*) How recovered, see §§ 680–684; how applicable, §§ 699, 716.

128.—(1.) The master (*m*) shall sign and give to a seaman (*m*) discharged from his ship (*m*), either on his discharge or on payment of his wages, a certificate of his discharge in a form approved by the Board of Trade, specifying the period of his service, and the time and place of his discharge, and if the master (*m*) fails (*n*) so to do he shall for each offence be liable (*o*) to a fine not exceeding ten pounds (*p*).

Certificate of discharge and return of certificate to officer on discharge. 1854, s. 172.

(2.) The master (*m*) shall also, upon the discharge of every certificated officer (*q*) whose certificate of competency (*r*) has been delivered to and retained by him, return the certificate to the officer, and if without reasonable cause he fails (*m*) so to do he shall for each offence be liable to a fine not exceeding twenty pounds (*p*).

129.—(1.) Where a seaman (*m*) is discharged before a superintendent (*s*), the master (*m*) shall make and sign, in a form approved by the Board of Trade, a report of the conduct, character, and qualifications of the seaman (*m*) discharged, or may state in the said form that he declines to give any opinion upon such particulars, or upon any of them, and the superintendent (*s*) before whom the discharge is made shall, if the seaman (*m*) desires, give to him or endorse on his certificate of discharge (*t*) a copy of such report (in this Act referred to as the report of character).

Reports of seaman's character. 1854, s. 176.

(2.) The superintendent (*s*) shall transmit the reports to the Registrar-General of Shipping and Seamen (*u*), or to such other person as the Board of Trade may direct, to be recorded.

False or forged certificate of discharge or

130. If any person—

(*a*.) makes a false report of character (*x*) under this Act, knowing the same to be false; or

(*m*) Defined, § 742.

(*n*) Includes refusal, § 742.

(*o*) The penalty is the only remedy; an action will not lie for the failure. *Vallance v. Falle* (1884), 13 Q. B. D. 109.

(*p*) How recovered, see §§ 680-684; how applicable, §§ 699, 716.

(*q*) § 92.

(*r*) Includes certificates of service, § 99, s. 4.

(*s*) Cf. §§ 247, 742.

(*t*) § 128, s. 1.

(*u*) § 251; cf. § 256.

(*x*) § 129, s. 1.

- (b.) forges or fraudulently alters any certificate of discharge (y) or report of character (z) or copy of a report of character (z) ; or
- (c.) assists in committing, or procures to be committed, any of such offences as aforesaid ; or
- (d.) fraudulently uses any certificate of discharge (y) or report of character (z) or copy of a report of character (z) which is forged or altered or does not belong to him, he shall in respect of each offence be guilty of a misdemeanor (a).

report of character.
1854, s.
176.

Payment of Wages (b).

131.—(1.) Where a seaman (c) is discharged before a superintendent (d) in the United Kingdom (e), he shall receive his wages (c) through or in the presence of the superintendent (d), unless a competent court (f) otherwise direct, and if in such a case the master (c) or owner (g) of a ship (c) pays his wages (c) within the United Kingdom in any other manner, he shall for each offence be liable to a fine not exceeding ten pounds (a).

Payment of Wages.
Payment of wages before superintendent.
1854, s.
170.

(2.) If the master (c) or owner of a home-trade ship (c) so desires, the seamen (c) of that ship (c) may receive their wages (c) in the same manner as seamen discharged from a foreign-going ship (h).

132.—(1.) The master (c) of every ship (c) shall before paying off or discharging a seaman deliver at the time and in the manner provided by this Act (i) a full and true account, in a form approved by the Board of Trade, of the seaman's wages (c), and of all deductions (k) to be made therefrom on any account whatever.

Master to deliver account of wages.
1854, s.
171.
43 & 44
Vict. c. 16,
s. 4 (2).

- (y) § 128, s. 1.
(z) § 129, s. 1.
(a) Procedure, see §§ 680-684; how applicable, §§ 699, 716.
(b) For application of this Part, see §§ 261-263, and Preliminary Note to this Part.
(c) Defined, § 742.
(d) Cf. §§ 247, 742.
(e) See § 127.
(f) §§ 137, 161, 164.
(g) Includes persons with equitable

- interests, § 58.
(h) Sub-s. 1.
(i) Sub-s. 2.
(k) The wages stated in the agreement with the crew (§ 113) to be paid to a seaman may be subtracted from in three ways:—
I. By deductions made by the master, and entered in the account of wages (§ 133, s. 1), in a special book (§ 133, s. 2), and in case of death in the official log-book (§ 240,

(2.) The said account shall be delivered—

(a.) where the seaman (*l*) is not to be discharged (*m*) before a superintendent (*n*), to the seaman himself

s. 9). The validity of these deductions may be determined in any proceeding as to wages (§ 233).

Such deductions may be in respect of:—

(1.) Reimbursement of relief paid by guardians to the family of a seaman during the voyage, and by them claimed from the seaman through the owner (§§ 182, 183).

(2.) Reasonable expenses incurred by the owner in respect of the illness or burial of any seaman, not caused by hurt or injury in the service of the ship, or incurred for the benefit of the ship (§ 207, ss. 1, 2, 5).

They may be in respect of the seaman's agreement on his preceding ship; e.g.—

(3.) When a seaman has volunteered into the Navy, leaving his last ship without having earned wages paid in advance by the last owner, the sum he has not earned may be deducted from his wages earned in the Navy (§ 197, s. 5).

(4.) When a seaman has deserted, and the owner of his last ship has paid extra wages to secure a substitute, such excess may be deducted from the wages of the seaman on his new ship (§ 221 (a)).

(5.) Where a seaman is left abroad, and his wages are paid to the consular officer, the latter may deduct from them any expenses incurred in the maintenance of the seaman, which are not recoverable from the master or owner (§ 189, s. 7).

(6.) Costs of a survey made upon groundless complaint may be deducted from the wages of the complainant (§ 463, s. 7).

(7.) Costs of prosecution of a seaman in a foreign port may be deducted under the order of a naval court (§ 483, 1 (f)).

(8.) Costs of frivolous complaint before naval court (§ 483), 1 (k)).

II. Forfeitures imposed by some court, or fines imposed under the agreement with the crew. The validity of these may be determined (§ 233) by any court having jurisdiction

to hear claims for wages (§§ 164–166, and § 483, 1 (k)). Forfeitures, unless otherwise provided, are for the benefit of the master or owner by whom the wages were payable (§ 233, s. 3). In the case of forfeitures for desertion (§ 221 (a)), forfeitures are applied first to reimbursing the expenses of the master or owner caused by desertion, and the balance paid to the Exchequer (§ 232, ss. 1, 2). Fines under the agreement—the proper entries in the official log-book being made (§ 228)—are to be deducted by the master from the wages of the seaman, and paid to a superintendent (§ 235). As to their application, see §§ 699, 716.

Such forfeitures and fines are as follows:—

(1.) By order of a court, to reimburse the master's costs incurred in procuring a conviction and punishment of the seaman (§ 161); cf. § 483, 1 (f).

(2.) Failure of a seaman to do his utmost to save ship, cargo, and stores, bars his claim to wages (§ 157, s. 1).

(3.) No wages payable during the time of any unlawful refusal or neglect to work (§ 159).

(4.) No wages payable during the period of lawful imprisonment of a seaman for an offence, unless the court sentencing him otherwise directs (§ 159).

(5.) No wages payable during illness caused by the seaman's wilful act or default.

In cases 2–5, the forfeiture is for the benefit of the owner, in that no wages are ever earned.

(6.) Forfeiture of a sum not exceeding a week's wages by a seaman making a complaint as to quality or quantity of provisions or water without reasonable cause (§ 198, s. 1).

(7.) For desertion, all wages then earned, and effects, and wages earned on next ship, if required to reimburse expenses caused by desertion (§ 221 (a)); and for application, see § 232, ss. 1, 2).

(8.) For absence without leave, two

not less than twenty-four hours before his discharge or payment off; and

(b.) where the seaman (l) is to be discharged (m) before a superintendent (n), either to the seaman himself at or before the time of his leaving the ship, or to the superintendent not less than twenty-four hours before the discharge or payment off.

(3.) If the master (l) of a ship (l) fails (o) without reasonable cause to comply with this section, he shall for each offence be liable to a fine not exceeding five pounds (p).

133.—(1.) A deduction (q) from the wages (l) of a seaman (l) shall not be allowed unless it is included in the account of wages. *The Highland Chief* (1892), P. 76. Deductions from wages of seamen. 1854, s. 171.

days' pay; and for every twenty-four hours' absence, either a sum not exceeding six days' pay, or the expenses of hiring a substitute (§ 221 (b.)).

(9.) Quitting ship without leave at port of discharge before she is placed in security; not exceeding one month's pay (§ 225, s. 1 (a.)).

(10.) Wilful disobedience to any lawful command, not exceeding two days' pay, at discretion of court (§ 225, s. 1 (b.)).

(11.) Continued wilful disobedience, for every twenty-four hours' continuance, at the discretion of the court, a sum not exceeding six days' pay, or any expenses properly incurred in hiring a substitute (§ 225, s. 1 (c.)).

(12.) Wilful damage to ship, a sum equal to the loss thereby sustained (§ 225, s. 1 (f.)).

(13.) Smuggling, causing loss or damage to the owner, a sum sufficient to reimburse that loss or damage (§ 225, s. 1 (g.)).

(14.) Costs incurred by master or owner in prosecution for desertion, to be deducted from wages, if court orders (§ 224, s. 1).

(15.) Wilfully making false statement as to his name, or that of his last ship, fine not exceeding £5 (§ 227, s. 1).

(16.) Fines under agreement with crew (§ 235).

III. *Reductions*, as where the master disrates the seaman, reducing his wages: the amount of this reduction need not be entered in the

account of wages. *The Highland Chief* (1892), P. 76.

On the other hand, the wages stated in the agreement with the crew may be added to:—

(1.) By increase of wages on promotion, see note (d) to § 114.

(2.) If the master does not pay wages to each seaman when he leaves the ship at the end of his engagement as provided by § 134, s. 1, wages will run until they are finally paid (§ 134 (c.)).

(3.) On home-trade ships, if wages are not paid two days after discharge, or end of engagement, the seaman is entitled to double pay for each day's delay not exceeding ten (§ 135).

(4.) Compensation not exceeding one month's wages may be recovered as wages for wrongful discharge before or within a month of the commencement of the voyage (§ 162).

(5.) Compensation not exceeding £20 for ill usage by the master on the voyage, may be recovered as wages (§ 166).

(6.) Certain allowances may be recovered as wages, as compensation for reduction in allowance of, or bad quality of provisions, on the voyage (§ 199), or for blocking accommodation for seamen (§ 210).

(l) Defined, § 742.

(m) § 127.

(n) Cf. §§ 247, 742.

(o) Includes refusal, § 742.

(p) How recovered, see §§ 680-684; how applicable, §§ 699, 716.

(q) See note (k), p. 109.

account delivered in pursuance of the last preceding section, except in respect of a matter happening after the delivery (r).

(2.) The master (s) shall during the voyage enter the various matters in respect of which the deductions are made, with the amounts of the respective deductions, as they occur, in a book to be kept for that purpose, and shall, if required, produce the book at the time of the payment of wages (s), and also upon the hearing before any competent authority (t) of any complaint or question relating to that payment.

Time of
payment
of wages
for foreign-
going
ships.
1854, s.
187.
43 & 44
Vict. c. 16,
s. 4.

134. In the case of foreign-going (s) ships (other than ships (s) employed on voyages for which seamen by the terms of their agreement are wholly compensated by a share in the profits of the adventure) (u)—

(a.) The owner or master (s) of the ship (s) shall pay to each seaman (s) on account, at the time when he lawfully leaves the ship at the end of his engagement (x), two pounds, or one fourth of the balance of wages (s) due to him, whichever is least; and shall pay him the remainder of his wages (s) within two clear days (exclusive of any Sunday, fast day in Scotland, or Bank holiday) after he so leaves the ship:

(b.) If the seaman (s) consents, the final settlement of his wages (s) may be left to a superintendent (y) under regulations of the Board of Trade, and the receipt of the superintendent (y) shall in that case operate as if it were a release given by the seaman (s) in accordance with this Part of this Act (z):

(c.) (a) In the event of the seaman's (s) wages (s) or any

(r) § 132, s. 1.

(s) Defined, § 742.

(t) §§ 137, 164.

(u) This probably refers to whalers; cf. § 744. Fishing-boats also run on profit-sharing terms; see §§ 383, 388, 389, 400 (c.). Share of profits on such an agreement can be recovered as wages. *The Frederick* (1803). 5 C. Rob. 8; see also § 234.

(x) This means the period when

actual service terminates, and includes both natural effluxion of the contract and discharge for breach of the contract. *Re Great Eastern S.S. Co.* (1885), 5 Asp. M. C. 511, 514.

(y) Cf. §§ 247, 742.

(z) § 136.

(a) This provision does not apply to masters. See § 167, and *The Arina*, (1887), 12 P. D. 118.

part thereof not being paid or settled as in this section mentioned, then, unless the delay is due to the act or default of the seaman, or to any reasonable dispute as to liability (b), or to any other cause not being the wrongful act or default (c) of the owner or master (d), the seaman's wages (d) shall continue to run and be payable until the time (e) of the final settlement thereof (f).

135.—(1.) The master (d) or owner of any home-trade ship (d) shall pay to every seaman (d) his wages (d) within two days after the termination (g) of the agreement with the crew (h), or at the time when the seaman is discharged, whichever first happens.

Time of
payment of
wages for
home
trade
ships.
1854, s.
187.

(2.) If a master (d) or owner (i) fails (k) without reasonable cause (l) to make payment at that time, he shall pay to the seaman (d) a sum not exceeding the amount of two days' pay for each of the days during which payment is delayed beyond that time, but the sum payable shall not exceed ten days' double pay (m).

(3.) Any sum payable under this section may be recovered as wages (n).

136.—(1.) Where a seaman (d) is discharged, and the settlement of his wages completed (o), before a superintendent (p), he shall sign in the presence of the superintendent (p) a release, in a form approved by the Board of Trade, of all claims in respect of the past voyage or engagement; and the release shall also be signed by the

Settle-
ment of
wages.
1854, s.
175.

(b) Merely raising a point of law does not make a dispute as to liability reasonable. *Re Great Eastern S. S. Co.* (1885), 5 Asp. M. C. 511, at p. 514.

(c) The owner or master being bound to pay, if the owner does not put the master in funds to pay, this is a default under the section (*Re Great Eastern S. S. Co.*, *ubi supra*).

(d) Defined, § 742.

(e) Up to chief clerk's certificate in Chancery, or Registrar's report in Admiralty. *Re Great Eastern S. S. Co.* (1885), 5 Asp. M. C. 511, and *Delarogue v. S. S. Ozamholme* (1883); *Pritchard's Digest*, 1701.

(f) The provisions of the later Act are adopted, and the Act of 1854 as to double pay is treated as overruled.

(g) See note (x), p. 112.

(h) § 113.

(i) Includes persons equitably interested; § 58.

(k) Includes refusal; § 742.

(l) See *Frazer v. Hatton* (1857), 2 C. B. N. S. 512.

(m) See note (a), p. 112.

(n) §§ 164-166.

(o) § 137.

(p) *Ci.* §§ 247, 742.

master (*q*) or owner of the ship, and attested (*r*) by the superintendent (*s*).

(2.) The release, so signed and attested, shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement.

(3.) The release shall be retained by the superintendent (*s*), and on production from his custody shall be admissible in evidence in manner provided by this Act (*t*).

(4.) Where the settlement of a seaman's wages (*q*) is by this Act (*u*) required to be completed through or in the presence of a superintendent (*s*), no payment, receipt, or settlement, made otherwise than in accordance with this Act (*x*) shall operate as or be admitted as evidence of the release or satisfaction of any claim.

(5.) Upon any payment being made by a master (*q*) before a superintendent (*s*), the superintendent (*s*) shall, if required, sign and give to the master (*q*) a statement of the whole amount so paid; and the statement shall as between the master (*q*) and his employer be admissible as evidence that the master (*q*) has made the payments therein mentioned.

Decision
of ques-
tions by
superin-
tendents.
1854, s.
173.
43 & 44
Vict. c. 16,
s. 4 (5).

137.—(1.) Where in the case of a foreign-going ship (*q*) a question as to wages (*q*) is raised before a superintendent (*s*) between the master (*q*) or owner of the ship (*q*) and a seaman (*q*) or apprentice, and the amount in question does not exceed five pounds, the superintendent (*s*) may, on the application of either party, adjudicate, and the decision of the superintendent (*s*) in the matter shall be final; but if the superintendent (*s*) is of opinion that the question is one which ought to be decided by a court of law, he may refuse to decide it (*y*).

(2.) Where any question, of whatever nature and whatever the amount in dispute, between a master (*q*) or owner and any of his crew is raised before a superintendent (*z*),

(*q*) Defined, § 742.

(*r*) § 694.

(*s*) Cf. §§ 247, 742.

(*t*) § 695.

(*u*) § 131.

(*x*) Sub-a. 1-3.

(*y*) The superintendent, not being a court, cannot rescind the contract under § 168.

(*z*) Cf. §§ 247, 742.

and both parties agree in writing to submit the same to him, the superintendent shall hear and decide the question so submitted; and an award made by him upon the submission (*a*) shall be conclusive as to the rights of the parties, and the submission or award shall not require a stamp; and a document purporting to be the submission or award shall be admissible as evidence thereof.

138.—(1.) In any proceeding under this Act (*b*) before a superintendent (*z*) relating to the wages (*c*), claims, or discharge of a seaman, the superintendent (*z*) may require the owner (*d*), or his agent, or the master (*c*), or any mate or other member of the crew, to produce any log-books, papers, or other documents in his possession or power relating to a matter in question in the proceeding, and may require the attendance of and examine any of those persons, being then at or near the place, on the matter.

Power of superintendent to require production of ship's papers. 1854, s. 174.

(2.) If any person so required fails (*e*), without reasonable cause, to comply with the requisition, he shall for each offence be liable to a fine not exceeding five pounds (*f*).

139. Where a seaman (*c*) has agreed with the master (*c*) of a British ship (*g*) for payment of his wages (*c*) in British sterling or any other money, any payment of, or on account of, his wages (*c*) if made in any other currency than that stated in the agreement, shall, notwithstanding anything in the agreement, be made at the rate of exchange for the money stated in the agreement, for the time being current at the place where the payment is made (*h*).

Rule as to payment of British seamen in foreign money. 52 & 53 Vict. c. 46, s. 4.

Advance and Allotment of Wages (i).

140.—(1.)—(*a*.) Where an agreement with the crew (*k*) is required (*l*) to be made in a form approved by the

Advance and Allotment of Wages.

(*a*) i.e. the agreement in writing, which, being a submission, appears to come under the provisions of the Arbitration Act, 1889.

(*b*) §§ 131, 137.

(*c*) Defined, § 742.

(*d*) Includes owner with beneficial interest; § 58.

(*e*) Includes refusal; § 742.

(*f*) How recoverable, see §§ 680-

684; how applicable, §§ 699, 716.

(*g*) See note to § 1.

(*h*) See *The Nonpareil* (1864), Br. & L. 355.

(*i*) For the application of this Part, see Preliminary Note, and §§ 260-263.

(*k*) § 113.

(*l*) §§ 113, 114.

Advance

notes
restricted.
52 & 53
Vict. c.
46, s. 2.

Board of Trade, the agreement may contain a stipulation for payment to or on behalf of the seaman (*m*) conditionally on his going to sea in pursuance of the agreement, of a sum not exceeding the amount of one month's wages (*m*) payable to the seaman (*m*) under the agreement; and

(b.) Stipulations for the allotment of a seaman's wages may be made in accordance with this Act (*n*).

(2.) Save as aforesaid an agreement by or on behalf of the employer of a seaman (*m*) for the payment of money to or on behalf of the seaman (*m*) conditionally on his going to sea from any port (*m*) in the United Kingdom shall be void, and any money paid in satisfaction or in respect of any such agreement shall not be deducted from the seaman's wages (*m*), and a person shall not have any right of action, suit, or set-off against the seaman (*m*) or his assignee in respect of any money so paid or purporting to have been so paid.

Regula-
tions as to
allotment
notes.
1854, ss.
168, 169.
43 & 44
Vict. c.
16, s. 3.

141.—(1.) Any stipulation made by a seaman (*m*) at the commencement of a voyage for the allotment of any part of his wages (*m*) during his absence shall be inserted in the agreement with the crew (*o*), and shall state the amounts and times of the payments to be made.

(2.) Where the agreement is required (*p*) to be made in a form approved by the Board of Trade, the seaman (*m*) may require that a stipulation be inserted in the agreement for the allotment by means of an allotment note, of any part (not exceeding one half of his wages) in favour either of a near relative (*q*) or of a savings bank (*q*).

(3.) Allotment notes shall be in a form approved by the Board of Trade.

(4.) For the purposes of the provisions of this Act (*r*) with respect to allotment notes—

(a.) the expression "near relative" means one of the following persons, namely, the wife, father, mother,

(*m*) Defined, § 742.

(*n*) §§ 141, 142.

(*o*) § 113.

(*p*) §§ 113, 114.

(*q*) Sub-s. 4.

(*r*) Sub-s. 2; § 142.

grandfather, grandmother, child, grandchild, brother, or sister of the seaman (s);

(b.) the expression "savings bank" means a seamen's savings bank under this Act, or a trustee savings bank, or a post-office savings bank.

142.—(1.) An allotment in favour of a savings bank (t) shall be made in favour of such persons and carried into effect in such manner as may be prescribed by regulations of the Board of Trade.

Allotments through savings banks. 43 & 44 Vict. c. 16, s. 3. 1854, s. 199.

(2.) The sum received by a savings bank (t) in pursuance of an allotment, shall be paid out only on an application made, through a superintendent (u) or the Board of Trade, by the seaman (s) himself, or, in case of his death, by some person to whom his property, if under one hundred pounds (x) in value, may be paid under this Act (y).

143.—(1.) The person in whose favour an allotment note (z) under this Act is made may, unless the seaman (s) is shown, in manner in this Act specified (a), to have forfeited or ceased to be entitled to the wages (s) out of which the allotment is to be paid, recover the sums allotted, when and as the same are made payable, with costs from the owner (b) of the ship with respect to which the engagement was made, or from any agent of the owner who has authorized the allotment, in the same court and manner in which wages (s) of seamen (s) not exceeding fifty pounds may be recovered under this Act (c); provided that the wife of a seaman (s), if she deserts her children, or so misconducts herself as to be undeserving of support from her husband, shall forfeit all right to further payments under any allotment made in her favour.

Right of suing on allotment notes. 1854, s. 169. 43 & 44 Vict. c. 16, s. 3.

(2.) In any proceeding for such recovery it shall be sufficient for the claimant to prove that he is the person

(s) Defined § 742.

(t) § 141, s. 4.

(u) Cf. §§ 247, 742.

(x) £50 in the repealed Acts.

(y) § 176.

(z) § 141.

(a) e.g. as in §§ 159-161; cf. note to § 132.

(b) Does not include a registered owner who has demised his ship, so that she is out of his possession and control. *Metkileid v. West* (1875), 1 Q. B. D. 428; cf. *Baumroll v. Furness* (1893), A. C. 8.

(c) § 164.

mentioned in the note, and that the note was given by the owner (*d*) or by the master (*e*) or some other authorized agent; and the seaman (*e*) shall be presumed to be duly earning his wages (*e*), unless the contrary is shown to the satisfaction of the court, either—

- (*a.*) by the official statement of the change in the crew caused by his absence, made and signed by the master (*e*), as by this Act is required (*f*); or
- (*b.*) by a certified copy of some entry in the official log-book (*g*) to the effect that he has left the ship (*e*); or
- (*c.*) by a credible letter from the master (*e*) of the ship (*e*) to the same effect; or
- (*d.*) by such other evidence as the court (*e*) in their absolute discretion consider sufficient to show satisfactorily that the seaman (*e*) has ceased to be entitled to the wages (*e*) out of which the allotment is to be paid (*h*).

Time for
payment
of allot-
ment note.
43 & 44
Vict. c 16,
s. 3 (4).

144. A payment under an allotment note (*i*) shall begin at the expiration of one month, or, if the allotment is in favour of a savings bank (*i*), of three months, from the date of the agreement with the crew (*k*), or at such later date as may be fixed by the agreement, and shall be paid at the expiration of every subsequent month, or of such other periods as may be fixed by the agreement, and shall be paid only in respect of wages (*e*) earned before the date of payment.

Seamen's
Money
Orders.

Seamen's Money Orders and Savings Banks (l).

Remit-
tance of
seamen's
wages, &c.,
by sea-
men's
money
orders.
1854, s.
177.

145.—(1.) Facilities shall be given for remitting the wages (*e*) and other money of seamen (*e*) and apprentices (*m*) to the sea service to their relatives or other persons by means of seamen's money orders, issued by superintendents (*n*) in accordance with this Act (*o*).

(*d*) See note (*b*), p. 117.

(*e*) Defined, § 742.

(*f*) § 117, s. 1.

(*g*) § 239.

(*h*) As in the case contemplated in § 158.

(*i*) § 141.

(*k*) § 113.

(*l*) For application of this Part, see Preliminary Note, and §§ 260-263.

(*m*) §§ 105-109.

(*n*) Cf. §§ 247, 742.

(*o*) §§ 147, 148.

(2.) The Board of Trade may make (*p*) regulations concerning seamen's money orders (*q*), and in particular may specify in those regulations the time and mode of payment, and the persons by or to whom the same are to be paid; and all such regulations, while in force, shall be binding upon all persons interested or claiming to be interested in the orders as well as upon the officers employed in issuing or paying the same.

146. The Board of Trade may, if they think fit, cause the amount of any seaman's money order (*q*) to be paid to the person to whom or in whose favour the same has been granted, or to the personal representative, or any legatee, or next-of-kin of such person, notwithstanding that the order may not be in his possession; and, from and after the payment, the Board of Trade, and every superintendent (*r*) and officer of the Board of Trade shall be freed from all liability in respect of the money order.

147. If any superintendent (*r*) or officer grants or issues a seaman's money order (*q*) with a fraudulent intent he shall be guilty of felony (*s*), and shall for each offence be liable to penal servitude for a term not exceeding five and not less than three years.

148.—(1.) The Board of Trade may maintain a central seamen's savings bank in London, and may establish and maintain branch seamen's savings banks at such ports and places in the United Kingdom as they think expedient, and may receive at those banks deposits from or on account of seamen (*t*) (whether of the Royal Navy, merchant service or other sea service) or the wives, widows, and children of such seamen (*t*), so that the aggregate amount of deposits standing at any one time in the name of any one depositor do not exceed two hundred pounds.

(2.) The Board of Trade may constitute any mercantile marine office (*u*) a branch savings bank for sea-

(*p*) Includes a power to amend or rescind; Int. Act, 1889, § 32.

(*q*) § 145, s. 1.

(*r*) Cf. §§ 247, 742.

(*s*) Int. Act, 1889, § 28.

(*t*) Defined, § 742.

(*u*) §§ 246, 247.

Power to pay when order is lost. 1854, s. 178.

Penalty for issuing money orders with fraudulent intent. 1854, s. 179.

Power for Board of Trade to establish savings banks. 18 & 19 Vict. c. 91, s. 17. 19 & 20 Vict. c. 41, ss. 1, 2, and 4; and see 1854, s. 180.

men (*x*), and, if so required, any superintendent (*y*) of that office shall act as agent of the Board of Trade in executing the provisions of this Act relative to savings banks (*z*).

(9.) The Board of Trade may make (*a*) regulations with respect to the persons entitled to become depositors in seamen's savings banks, the making and withdrawal of deposits, the amount of deposits, the rate and payment of interest, the rights, claims, and obligations of depositors, and all other matters incidental to carrying into execution the provisions of this Act with respect to seamen's savings banks (*z*), and those regulations while in force shall have effect as if enacted in this Act.

National
Debt Com-
missioners
to receive
deposits,
&c.
19 & 20
Vict. c. 41,
s. 8.

149.—(1.) The National Debt Commissioners (*b*), on the request of the Board of Trade, may receive from and repay to the account of the Board the money paid as deposits in seamen's savings banks.

(2.) The Commissioners (*b*) shall invest money so received in the like manner as money received from trustee savings banks (*c*), and shall pay to the account of the Board of Trade, interest on the money while in their hands, at the same rate as on the money received from trustee savings banks.

Applica-
tion of
deposits
of de-
ceased
depositor.
19 & 20
Vict. c. 41,
s. 5.

150. All sums due from the Board of Trade to the estate of any deceased person on account of any deposit in a seamen's savings bank shall be paid and applied by the Board of Trade as if they were the property of a deceased seaman received by the Board under this Act, and the provisions of this Act respecting that property shall apply accordingly (*d*).

Expenses
of savings
banks.
19 & 20
Vict. c. 41,
s. 7.

151. The Board of Trade may, out of the interest received by them from the National Debt Commissioners (*b*) under this Act (*e*), pay any expenses incurred by them in relation to seamen's savings banks.

(*x*) Defined, § 742.

(*y*) Cf. §§ 247, 742.

(*z*) §§ 145-154.

(*a*) Includes a power to amend or rescind; Int. Act, 1889, § 32.

(*b*) Int. Act, 1889, § 12, s. 17.

(*c*) See 26 & 27 Vict. c. 87, § 19; 35 & 36 Vict. c. 68, § 8; and 43 & 44 Vict. c. 36, § 3, s. 7.

(*d*) §§ 176, *et seq.*

(*e*) § 149, s. 2.

152. An annual account of all deposits received and repaid on account of seamen's savings banks by the Board of Trade under this Act, and of the interest thereon, and a copy of all regulations (*f*) made by the Board of Trade with respect to seamen's savings banks shall be laid before both Houses of Parliament.

Accounts and copy of regulations to be laid before Parliament. 19 & 20 Vict. c. 41, s. 8.

153. Legal proceedings shall not be instituted against the Board of Trade, or against any superintendent (*g*) or officer employed in or about any seamen's savings banks or about any seamen's money order (*h*), on account of any regulations made by the Board of Trade with reference to those banks or orders (*f*), or on account of any act done or left undone in pursuance thereof, or on account of any refusal, neglect, or omission to pay any order or any deposit or interest thereon, unless that refusal, neglect, or omission arises from fraud or wilful misconduct on the part of the person against whom proceedings are instituted.

Public officers to be exempt from legal proceedings, except in case of wilful default. 1854, s. 177. 19 & 20 Vict. c. 41, s. 4.

154. If any person (*i*), for the purpose of obtaining, either for himself or for any other person (*i*), any money deposited in a seamen's savings bank or any interest thereon—

Forgery of documents, &c., for purpose of obtaining money in seamen's savings bank. 19 & 20 Vict. c. 41, s. 6.

- (a.) forges or fraudulently alters, assists in forging or fraudulently altering, or procures to be forged or fraudulently altered, any document purporting to show or assist in showing any right to any such money or interest; or
- (b.) makes use of any document which has been so forged or fraudulently altered as aforesaid; or
- (c.) gives, assists in giving, or procures to be given, any false evidence, knowing the same to be false; or
- (d.) makes, assists in making, or procures to be made, any false representation, knowing the same to be false; or

(*f*) § 148, s. 3.

(*g*) Cf. §§ 247, 742.

(*h*) § 145, s. 1.

(*i*) Includes Corporations; Int. Act, 1889, §§ 2, 19.

(e.) assists in procuring any false evidence or representation to be given or made, knowing the same to be false ;

that person shall for each offence be liable to penal servitude for a term not exceeding five years, or to imprisonment for any term not exceeding two years with or without hard labour, or on summary conviction (k) to imprisonment with or without hard labour for any period not exceeding six months.

*Rights of
Seamen in
respect of
Wages.*

Right to
wages, &c.,
when to
begin.
1854, s. 181.
Right to
recover
wages,
and sal-
vage not
to be for-
feited.
1854, s.
182.
1862, s. 18.
36 & 37
Vict. c. 85,
s. 8.

Rights of Seamen (l) in respect of Wages (m).

155. A seaman's (l) right to wages (l) and provisions (n) shall be taken to begin either at the time at which he commences work or at the time specified in the agreement (o) for his commencement of work or presence on board, whichever first happens.

156. (p)—(1.) A seaman (l) (q) shall not by any agreement forfeit his lien (r) on the ship, or be deprived of any remedy for the recovery of his wages, to which in the absence of the agreement he would be entitled (s), and shall not by any agreement abandon his right to wages (l) in case of the loss of the ship (t), or abandon any right that he may have or obtain in the nature of salvage (u); and every stipulation in any agreement inconsistent with any provision of this Act shall be void (x).

(k) See §§ 680–683, and Summary Jurisdiction Acts.

(l) Defined, § 742.

(m) As to application of this Part, see Preliminary Note to this Part, and §§ 260–263. The Court of Admiralty has jurisdiction over claims for wages by seamen on a foreign vessel. *The Nina* (1868), L. R. 2 P. C. at p. 48.

(n) This clause must be construed in the light of the agreement with the particular "seaman." See notes to § 113. Under the definition in § 742, a stevedore's labourer employed on the ship is a "seaman," but he has no right usually to "provisions."

(o) Probably the agreement with the crew (§ 113), which is to be entered into with every "seaman

carried to sea as one of the crew."

(p) The provisions which follow are exceptional, and are intended to protect the seaman, presumed by the Legislature to be weak and easily influenced, against all improvident acts of his own, which would anticipate or alienate his wages.

(q) This does not include a master. See *The Wilhelm Tell* (1892), P. at pp. 347, 349.

(r) § 167 does not allow a master to assert a lien for wages, in preference to, or *pari passu* with, the seamen. *The Salacta* (1862), 32 L. J. Ad. 41.

(s) §§ 164–166.

(t) § 157.

(u) Cf. §§ 510, 544–556.

(x) Cf. § 114, s. 1.

(2.) (y) Nothing in this section shall apply to a stipulation made by the seamen (z) belonging to any ship (z), which according to the terms of the agreement is to be employed on salvage service (a), with respect to the remuneration to be paid to them for salvage services to be rendered by that ship to any other ship (a).

157.—(1.) The right to wages (z) shall not depend on the earning of freight (b); and every seaman (z) and apprentice (c) who would be entitled to demand and recover any wages (z), if the ship in which he has served had earned freight (d), shall, subject to all other rules of law and conditions applicable to the case, be entitled to demand and recover the same, notwithstanding that freight has not been earned; but in all cases of wreck or loss of the ship, proof that the seaman (z) has not exerted himself to the utmost to save the ship (z), cargo, and stores, shall bar his claim to wages (z).

Wages not to depend on freight. 1854, ss. 183, 184.

(2.) Where a seaman (z) or apprentice (c) who would, but for death, be entitled by virtue of this section to demand and recover any wages (z), dies before the wages (z) are paid, they shall be paid and applied in manner provided

(y) This section includes § 182 of the Act of 1854 as s. 1; and § 18 of the Act of 1862 as § 2. Even under the Act of 1854 alone, however, it was held that the Act did not prevent seamen from entering into an equitable arrangement for the apportionment of salvage, though it prohibited stipulations by which they abandoned their right to salvage. *The Wilhelm Tell* (1892), P. at p. 347. Thus, as in the case cited, an equitable agreement for apportionments was upheld; see also *per Dr. Lushington*, in *The Enchantress* (1854), 4 Lush. at p. 97; *The Ganges* (1869), L. R. 2 A. & E. 370. But when the agreement is in the opinion of the court, inequitable (as in *The Louisa* (1843), 2 Wm. Rob. 22), or where the agreement apportions the salvage award after deductions (as in *The Saltburn* (1894), 6 R. 54, where repairs of the salvaging vessel were to be deducted; on which point see also *The Wilhelm Tell*, *supra*, at p. 350); the court has not acted

on it. Usually the unrecovered costs of obtaining the award are allowed to be deducted from the award, before apportionment; *The Wilhelm Tell*, *supra*.

If the vessel is intended principally to be employed in salvage operations, it comes within § 2 (see *The Wilhelm Tell*). Those alleging the agreement for employment and for remuneration, must prove them but neither need be in writing. *The Pride of Canada* (1863), Br. & L. 208.

See also agreements for salvage under this section. *The Afrika* (1880), 5 P. D. 192; *The Beulah* (1842), 2 N. of Cases, 61; *The Rosario* (1876), 2 P. D. 41; *The Minerva* (1825), 1 Hagg. 347; *The Juliana* (1822), 2 Dods, Ad. 504.

(z) Defined, § 742.

(a) Cf. §§ 510, 544–556.

(b) § 156, s. 1.

(c) §§ 105–109.

(d) *i.e.* if the ship had reached her port of discharge.

by this Act with respect to the wages (*e*) of a seaman (*e*) who dies during a voyage (*f*).

Wages on termination of service by wreck or illness. 1854, s. 185.

158. Where the service of a seaman (*e*) terminates before the date contemplated in the agreement, by reason of the wreck or loss (*g*) of the ship, or of his being left on shore at any place abroad under a certificate granted as provided by this Act (*h*) of his unfitness or inability to proceed on the voyage, he shall be entitled to wages (*e*) up to the time of such termination, but not for any longer period.

Wages not to accrue during refusal to work or imprisonment. 1854, s. 186.

159. A seaman (*e*) or apprentice (*i*) shall not be entitled to wages (*e*) for any time during which he unlawfully refuses or neglects to work, when required, whether before or after the time fixed by the agreement (*k*) for his commencement of such work, nor, unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

Forfeiture of wages, &c., of seaman when illness caused by his own default. 30 & 31 Vict. c. 124, s. 8. Costs of procuring punishment may be deducted from wages. 1854, s. 251.

160. Where a seaman (*e*) is by reason of illness incapable of performing his duty, and it is proved that the illness has been caused by his own wilful act or default (*l*), he shall not be entitled to wages (*e*) for the time during which he is by reason of the illness incapable of performing his duty.

161. Whenever in any proceeding relating to seamen's wages (*m*) it is shown that a seaman (*e*) or apprentice (*i*) has in the course of the voyage been convicted of an offence by a competent tribunal, and rightfully punished for that offence by imprisonment or otherwise, the court (*e*) hearing the case may direct any part of the wages (*e*) due to the seaman (*e*), not exceeding three pounds, to be applied in reimbursing any costs properly incurred by the master (*e*) in procuring the conviction and punishment.

Compensation to

162. (*n*) If a seaman (*e*), having signed an agreement (*k*),

(*e*) Defined, § 742.

(*f*) §§ 169-179.

(*g*) Includes capture, and a seaman only gets wages to the date of capture; per Lord Stowell. *The Friends* (1801), 4 C. Rob. 143.

(*h*) §§ 186-189.

(*i*) §§ 105-109.

(*k*) See note (*o*), p. 122.

(*l*) e.g. drunkenness.

(*m*) Cf. §§ 137, s. 1, 164.

(*n*) This does not apply to masters; cf. § 167.

is discharged otherwise than in accordance with the terms thereof (*o*) before the commencement of the voyage, or before one month's wages (*p*) are earned (*q*), without fault on his part justifying that discharge, and without his consent, he shall be entitled to receive from the master (*p*) or owner (*r*), in addition to any wages (*p*) he may have earned, due compensation for the damage caused to him by the discharge not exceeding one month's wages (*p*), and may recover that compensation as if it were wages duly earned (*s*).

seamen
improperly dis-
charged.
1854, s.
167.

163.—(1.) As respects wages (*p*) due or accruing to a seaman (*p*) or apprentice (*t*) to the sea service (*u*)—

Restriction
on sale of,
and charge
upon,
wages.
1854, s.
233.

- (a.) they shall not be subject to attachment or arrestment from any court;
- (b.) an assignment or sale thereof made prior to the accruing thereof shall not bind the person making the same;
- (c.) a power of attorney or authority for the receipt thereof shall not be irrevocable; and
- (d.) a payment of wages (*p*) to the seaman (*p*) or apprentice (*t*) shall be valid in law, notwithstanding any previous sale or assignment of those wages (*p*), or any attachment, incumbrance, or arrestment thereof.

(2.) Nothing in this section shall affect the provisions of this Act with respect to allotment notes (*x*).

Mode of recovering Wages.

164. A seaman (*p*) or apprentice (*t*) to the sea service, or a person (*y*) duly authorised on his behalf, may as soon as any wages (*p*) due to him, not exceeding fifty pounds, become payable (*z*), sue for the same before a court of summary jurisdiction (*a*) in or near the place at which his service has

*Mode of
recovering
Wages.*

Summary
proceed-
ings for
wages.
1854, s.
188.

(o) These words apply to both alternatives following; cf. note (*q*).

(p) Defined, § 742.

(q) This does not apply to a case when the voyage described in the agreement properly terminates in less than a month, but only to cases of discharge in breach of the agreement. *Tindle v. Davison* (1892), 66 L. T. 372.

(r) Notes to § 58.

(s) Cf. §§ 137, s. 1, 164.

(t) §§ 105–109.

(u) See note (*p*), p. 122.

(x) §§ 141–144.

(y) Int. Act, 1889, § 19.

(z) Other claims are made by the Act recoverable as wages; e.g. §§ 135, s. 3, 162, 167.

(a) Int. Act, 1889, § 18, s. 11.

terminated, or at which he has been discharged, or at which any person on whom the claim is made is or resides, and the order made by the court (*b*) in the matter shall be final (*c*).

Restrictions on suits for wages. 1854, s. 189.

165 (*d*). A proceeding for the recovery of wages (*b*) not exceeding fifty pounds (*e*) shall not be instituted by or on behalf of any seaman (*b*) or apprentice (*f*) to the sea service in any superior court of record in Her Majesty's dominions, nor as an Admiralty proceeding in any court having Admiralty jurisdiction in those dominions, except (*g*):

- (i.) where the owner of the ship is adjudged bankrupt; or
- (ii.) where the ship is under arrest or is sold by the authority of any such court as aforesaid; or
- (iii.) where a court of summary jurisdiction (*h*) acting under the authority of this Act (*i*), refers the claim to any such court; or
- (iv.) where neither the owner (*k*) nor the master (*b*) of the ship is or resides within twenty miles of the place where the seaman (*b*) or apprentice (*f*) is discharged or put ashore.

Wages not recoverable

166.—(1.) Where a seaman (*b*) is engaged for a voyage or engagement which is to terminate in the United Kingdom,

(*b*) Defined, § 742.

(*c*) The court may rescind the agreement; § 168.

(*d*) This section applies to masters. Cf. § 157, and *The Blakeney* (1859), Swa. 428.

(*e*) A claim for wages between £50 and £150 should be brought in a county court having Admiralty jurisdiction (31 & 32 Vict. c. 71, s. 3), from which there is an appeal to the Admiralty Court.

The Admiralty Court Act, 1861, 24 Vict. c. 10, § 10, remains unrepealed, and is as follows:—

“The High Court of Admiralty shall have jurisdiction over any claim by a seaman of any ship for wages earned by him on board the ship, whether the same be due under a special contract or otherwise, and also over any claim by the master of

any ship for wages earned by him on board the ship, and for disbursements made by him on account of the ship: Provided always that if in any such cause the plaintiff do not recover £50, he shall not be entitled to any costs, charges, or expenses incurred by him therein, unless the judge shall certify that the cause was a fit one to be tried in the said court.”

This appears to conflict with § 165 of this Act, which reproduces § 189 of the Act of 1854.

(*f*) §§ 105–109.

(*g*) This does not give the court in such cases jurisdiction to inflict fines: e.g. under § 108, s. 4. *The Albert Crosby* (1860), Lush, 44.

(*h*) Int. Act, 1889, § 18, s. 11.

(*i*) § 164.

(*k*) Notes to § 58.

he shall not be entitled to sue in any court abroad for wages (*l*), unless he is discharged with such sanction as is required by this Act (*m*), and with the written consent of the master (*l*), or proves such ill-usage on the part or by authority of the master (*l*), as to warrant reasonable apprehension of danger to his life if he were to remain on board.

abroad in
certain
cases.
1854, s.
190.

(2.) If a seaman (*l*) on his return to the United Kingdom proves that the master or owner has been guilty of any conduct or default which but for this section would have entitled the seaman to sue for wages before the termination of the voyage or engagement (*n*), he shall be entitled to recover in addition to his wages (*l*) such compensation not exceeding twenty pounds as the court (*o*) hearing the case thinks reasonable (*p*).

167.—(1.) The master (*l*) of a ship (*q*) shall, so far as the case permits, have the same rights, liens, and remedies for the recovery of his wages (*l*) as a seaman (*l*) has under this Act (*r*), or by any law or custom (*s*).

Remedies
of master
for wages
disburse-
ments, &c.
1854, s.
191.
52 & 53
Vict. c. 46,
s. 1.

(2.) The master (*l*) of a ship (*l*), and every person lawfully (*t*) acting as master of a ship (*u*), by reason of the decease or incapacity from illness of the master of the ship, shall, so far as the case permits, have the same rights, liens, and remedies for the recovery of disbursements or liabilities properly made or incurred by him on account

(*l*) Defined, § 742.

(*m*) § 188.

(*n*) As amounting to a complete breach of the engagement.

(*o*) See § 164.

(*p*) He may also claim general damages. *The Justitia* (1887), 12 P. D. 145.

(*q*) In *The Milford* (1858), Swabey, 362, Dr. Lushington gave the master of a foreign ship the benefit of this clause. See § 260, note, and *The Nina* (1864), L. R. 2 P. C. 38.

(*r*) § 164.

(*s*) This gives the master, not the same rights to wages, but the same rights, liens, and remedies for the recovery of wages. He has not,

therefore, as a seaman has, the right to wages till the settlement of his account, under § 134 (*c*), nor the right to double pay, if payment of wages is delayed, under § 135, s. 2; *The Arina* (1887), 12 P. D. 118; nor, *semble*, rights to compensation under § 162.

(*t*) This restricts the definition of "master" in § 742, which includes every person except a pilot in charge or control of a ship.

(*u*) In *The Victoria* (1867), 37 L. J. Ad. 12, a mate was not allowed to claim disbursements; this would allow him, if lawfully acting as master.

of the ship (*x*) as a master (*y*) has for the recovery of his wages (*z*).

(8.) If in any Admiralty proceeding in any court having Admiralty jurisdiction touching the claim of a master (*y*) in respect of wages (*y*), or of such disbursements, or liabilities as aforesaid, any right of set-off or counter-claim is set up, the court may enter into and adjudicate upon all questions, and settle all accounts then arising or outstanding and unsettled between the parties to the proceeding (*a*), and may direct payment of any balance found to be due.

Power of Courts to rescind Contracts.

Power of court to rescind contract between owner or master and seaman or apprentice.
43 & 44
Vict. c. 16,
s. 8.

168. Where a proceeding is instituted in or before any court (*b*) in relation to any dispute between an owner or master (*x*) of a ship and a seaman (*y*) or apprentice (*c*) to the sea service, arising out of or incidental to their relation as such, or is instituted for the purpose of this section, the court (*b*), if, having regard to all the circumstances of the case, they think it just to do so, may rescind any contract between the owner or master (*y*) and the seaman (*y*) or

(*x*) It was decided in *The Sara* (1889), 14 App. C. 209, that under the statute then existing, the master had no maritime lien on the ship for disbursements on account of the ship, the decision to the contrary effect in *The Glentanner* (1859), Swa. 415; *The Mary Ann* (1865), L. R. 1 A. & E. 8; *The Feronia* (1868), L. R. 2 A. & E. 65; *The Ringdove* (1886), 11 P. D. 120, being overruled. In consequence of that decision, the Act of 1889 (52 & 53 Vict. c. 46, s. 1) was passed, the words of which are reproduced in this subsection. In *The Castlegate* (1893), A. C. 38, it was held that these words only gave the master a lien for disbursements which the shipowners were bound to pay, and not for disbursements which under the ship's charter were to be paid by the charterers, such as, in that case, payments for coals. The House of Lords approved the previous decisions to the same effect in *The Beeswing* (1885), 53 L. T. 554; *The Turgot* (1886), 11 P. D. 21. Further, as there was in such a case no

lien on ship for disbursements, the House of Lords held, following *Smith v. Plummer* (1818), 1 B. & Ald. 575, 582, that there was no lien on freight. In *The Orienta* (1895), P. 271, it was held that a master had only a lien for such disbursements as would without express authority have pledged his owner's credit; and not, therefore, for coals ordered in a home port. As to disbursements allowed, see also *The Feronia*, *ubi supra*; *The Limerick* (1876), 1 P. D. 411.

(*y*) Defined, § 742.

(*s*) § 167, s. 1.

(*a*) Including accounts between the master as co-owner, and his co-owners:—cf. *The City of Mobile* (1873), L. R. 4 A. & E. 191, though the master may not include such matters in his claim as a claim to a share of the ship:—the *D. Jex* (1865), 2 Asp. M. C. O. S. 263.

(*b*) § 742. The superintendent deciding disputes under § 137 is not a court, and cannot exercise this power.

(*c*) §§ 105–109.

apprentice (*d*), or any contract of apprenticeship (*d*), upon such terms as the court may think just, and this power shall be in addition to any other jurisdiction which the court can exercise independently of this section.

Property of deceased Seamen (e).

169.—(1.) If any seaman (*f*) or apprentice (*d*) to the sea service belonging to a British (*g*) ship (*f*) the voyage of which is to terminate in the United Kingdom, whether a foreign-going (*f*) or a home-trade ship (*f*), dies during that voyage, the master (*f*) of the ship (*f*) shall take charge of any money or effects (*f*) belonging to the seaman (*f*) or apprentice (*d*) which are on board the ship.

Property of deceased Seamen.

Property of seamen who die during voyage.
1854, s. 194.

(2.) The master (*f*) may, if he think fit, cause any of the effects to be sold by auction at the mast or otherwise by public auction.

(3.) The master (*f*) shall enter in the official log-book (*h*) the following particulars:—

(*a.*) a statement of the amount of the money and a description of the effects (*f*):

(*b.*) in case of a sale, a description of each article sold, and the sum received for each:

(*c.*) a statement of the sum due to the deceased for wages (*f*) and of the amount of deductions (if any) to be made from the wages (*i*).

(4.) The entry shall be signed by the master (*f*) and attested (*k*) by a mate and some other member of the crew (*l*).

(5.) The said money, effects (*f*), proceeds of sale of effects, and balance of wages (*f*), are in this Act referred to as the property of the seaman (*f*) or apprentice (*d*).

170.—(1.) Where a seaman (*f*) or apprentice (*d*) dies as aforesaid (*m*) and the ship (*f*) before coming to a port (*f*)

Dealing with and account of

(*d*) §§ 105-109.

(*e*) As to application of this Part, see Preliminary Note, and §§ 260-263.

(*f*) Defined, § 742.

(*g*) See note to § 1.

S.M.S.A.

(*h*) § 239.

(*i*) See note to § 132.

(*k*) See § 694.

(*l*) This provision is repeated in § 239, s. 5 b.

(*m*) § 169, s. 1.

property
of seamen
who die
during
voyage.
1854, s.
195.

in the United Kingdom touches and remains for forty-eight hours at some port (*n*) elsewhere, the master (*n*) shall report the case to the British consular officer (*o*) at such port (*n*), or if the port (*n*) is in a British possession (*p*), to the officer of customs there, and shall give to the officer any information he requires as to the destination of the ship and probable length of the voyage.

(2.) That officer may, if he thinks it expedient, require the property (*q*) to be delivered and paid to him, and shall thereupon give to the master (*n*) a receipt thereof, and endorse under his hand upon the agreement with the crew (*r*) such particulars with respect thereto as the Board of Trade require.

(3.) The receipt (*s*) shall be produced by the master (*n*) to a superintendent (*t*) within forty-eight hours after his arrival at his port (*n*) of destination in the United Kingdom.

(4.) Where a seaman (*n*) or apprentice (*u*) dies as aforesaid (*x*) and the ship (*n*) proceeds at once to a port (*n*) in the United Kingdom without touching and remaining as aforesaid at a port elsewhere, or the consular officer (*o*) or officer of customs does not require the delivery and payment of the property (*q*) as aforesaid (*s*), the master (*n*) shall, within forty-eight hours after his arrival at his port (*n*) of destination in the United Kingdom, deliver and pay the property (*q*) to the superintendent (*t*) at that port.

(5.) In all cases where a seaman (*n*) or apprentice (*u*) dies during the progress of a voyage or engagement, the master (*n*) shall give to the Board of Trade, or to the superintendent (*t*) or officer to whom delivery and payment is made as aforesaid (*y*), such account in such form as they respectively require of the property (*q*) of the deceased (*z*).

(6.) A deduction (*a*) claimed by the master (*n*) in such account shall not be allowed unless verified, if an official log-book (*b*) is required to be kept, by an entry in that book

(*n*) Defined, § 742.

(*o*) Int. Act, 1889, § 12, s. 20.

(*p*) Ibid. § 18, s. 2.

(*q*) See § 169, s. 5.

(*r*) § 113.

(*s*) § 170, s. 2.

(*t*) §§ 247, 742.

(*u*) §§ 105-109.

(*x*) § 169, s. 1.

(*y*) § 170, ss. 2, 4.

(*z*) Account to be transmitted to
(§ 251) Registrar-General; § 256.

(*a*) See note to § 132.

(*b*) § 239.

made and attested as required by this Act (c), and also by such other vouchers (if any) as may reasonably be required by the Board of Trade or by the superintendent (d) or officer to whom the account is given (e).

(7.) A superintendent (d) in the United Kingdom shall grant to a master (f), upon due compliance with such provisions of this section as relate to acts to be done at the port (f) of destination (g), a certificate to that effect; and an officer of customs shall not clear inwards a foreign-going ship (f) without the production of that certificate.

171.—(1.) If the master (f) of the ship (f) fails (h) to comply with the provisions of this Act with respect to taking charge of the property of a deceased seaman (m) or apprentice (i), or to making in the official log-book the proper entries relating thereto (k), or to procuring the proper attestation of those entries as required by this Act (l), or to the payment or delivery of the property (e), he shall be accountable for the property (m) to the Board of Trade, and shall pay and deliver the same accordingly, and shall in addition for each offence be liable to a fine not exceeding treble the value of the property not accounted for, or if such value is not ascertained not exceeding fifty pounds (n).

Penalty for non-compliance with provisions as to property of deceased seamen. 18⁴, s. 196.

(2.) If any such property (m) is not duly paid, delivered, or accounted for by the master (f), the owner (o) of the ship (f) shall pay, deliver, and account for the same, and such property (m) shall be recoverable from him accordingly, and if he fails (h) to account for and deliver or pay the same, he shall in addition to his liability for the same be liable to a fine not exceeding treble the value of the property not accounted for, delivered, or paid over, or, if such value be not ascertained, not exceeding fifty pounds (n).

(c) § 169, ss. 3, 4; § 239, s. 5 (b.).

(d) §§ 247, 742.

(e) § 170, ss. 2, 4.

(f) Defined, § 742.

(g) Sub-ss. 3, 4, 5.

(h) Includes refusal; § 742.

(i) § 169, s. 1.

(k) § 169, s. 3.

(l) § 169, s. 4.

(m) See § 169, s. 5.

(n) How recovered, §§ 680-684; how applied, §§ 699, 716.

(o) Includes owner in equity; § 58.

(3.) The property (*p*) may be recovered in the same court and manner in which the wages (*q*) of seamen (*q*) may be recovered under this Act (*r*).

Property
of de-
ceased sea-
men left
abroad but
not on
board ship.
1854, s.
197.
1862, s. 20.

172. If any seaman (*q*) or apprentice (*s*) to the sea service belonging (*t*) to a British (*u*) ship (*q*) the voyage of which is to terminate in the United Kingdom, or who has within six months preceding his death belonged to any such ship, dies at any place out of the United Kingdom, leaving any money or effects (*q*) not on board the ship to which he belonged at the time of his death or to which he last belonged before his death, the chief officer of customs (*q*) in the case of a British possession (*x*), and in other cases the British consular officer (*y*) at or near the place, shall claim and take charge of such money and effects (*q*), and such money and effects (*q*) shall be deemed to be property of a deceased seaman or apprentice within the meaning of this Act (*p*).

Dealing
with pro-
perty of
deceased
seamen by
officers
abroad.
1854, s.
197.

173.—(1.) A chief officer of customs (*q*) in a British possession (*x*) and a British consular officer (*y*) may, as he thinks fit, sell any of the property (*p*) of a deceased seaman (*q*) or apprentice (*s*) delivered to him (*z*) or of which he takes charge under this Act (*a*), and the proceeds of any such sale shall be deemed to form part of the said property (*p*).

(2.) Every such officer shall quarterly, or at such times as the Board of Trade require, remit the property (*p*) in such manner, and shall render such accounts in respect thereof as the Board of Trade require.

Recovery
of wages,
&c., of sea-
men lost
with their
ship.
1862, s. 21.

174.—(1.) Where a seaman (*q*) or apprentice (*s*) is lost with the ship (*q*) to which he belongs the Board of Trade may recover the wages (*q*) due to him from the owner of the ship (*q*), in the same court and in the same manner

(*p*) § 169, s. 5.

(*q*) Defined, § 742.

(*r*) §§ 164, 165.

(*s*) §§ 105-109.

(*t*) i.e. entered on the agreement
with the crew; § 113.

(*u*) See note to § 1.

(*x*) Int. Act, 1889, § 18, s. 2.

(*y*) Ibid. § 12, s. 20.

(*z*) § 170, s. 1.

(*a*) § 172.

in which seamen's wages are recoverable (*b*), and shall deal with those wages (*c*) in the same manner as with the wages of other deceased seamen and apprentices under this Act (*d*).

(2.) In any proceeding for the recovery of the wages (*b*), if it is shown by some official return produced out of the custody of the Registrar-General of Shipping and Seamen (*e*), or by other evidence, that the ship (*c*) has twelve months or upwards before the institution of the proceeding left a port (*c*) of departure, she shall, unless it is shown that she has been heard of within twelve months after that departure, be deemed to have been lost with all her hands on board, either immediately after the time she was last heard of, or at such later time as the court (*c*) hearing the case may think probable.

(3.) Any duplicate agreement (*f*) or list of the crew (*g*) made out, or statement of a change of the crew (*h*) delivered, under this Act, at the time of the last departure of the ship from the United Kingdom, or a certificate purporting to be a certificate from a consular (*i*) or other public officer at any port (*c*) out of the United Kingdom, stating that certain seamen (*c*) and apprentices (*k*) were shipped in the ship from the said port, shall, if produced out of the custody of the Registrar-General of Shipping and Seamen (*e*), or of the Board of Trade, be, in the absence of proof to the contrary, sufficient proof that the seamen (*c*) and apprentices (*k*) therein named as belonging to the ship were on board at the time of the loss.

175. If a seaman (*c*) or apprentice (*k*) to the sea service dies in the United Kingdom, and is at the time of his death entitled to claim from the master (*c*) or owner (*l*) of a ship (*c*) in which he has served any effects (*c*) or unpaid wages (*c*), the master (*c*) or owner shall pay and deliver or account for such property to the superintendent (*m*) at the

Property
of seamen
dying at
home.
1854, s.
198.

(*b*) §§ 164, 165.

(*c*) Defined, § 742.

(*d*) § 176.

(*e*) § 251.

(*f*) § 115, ss. 3, 9.

(*g*) § 253.

(*h*) § 117, s. 1.

(*i*) Int. Act, 1889, § 12, s. 20.

(*k*) §§ 105-109.

(*l*) Note to § 58.

(*m*) §§ 247, 742.

port (*n*) where the seaman (*n*) or apprentice (*o*) was discharged or was to have been discharged, or to the Board of Trade, or as that Board direct.

Payment
over of
property
of de-
ceased
seamen by
Board of
Trade.
1854, s.
199.

176.—(1.) Where any property (*p*) of a deceased seaman (*n*) or apprentice (*o*) comes into the hands of the Board of Trade, or any agent of that Board, the Board of Trade, after deducting for expenses incurred in respect of that seaman or apprentice or of his property (*p*) such sum as they think proper to allow, shall, subject to the provisions of this Act, deal with the residue as follows :

- (a.) If the property exceeds in value one hundred pounds (*a*), they shall pay and deliver the residue to the legal personal representative (*n*) of the deceased :
- (b.) If the property do not exceed in value one hundred pounds (*a*), the Board may as they think fit either pay or deliver the residue to any claimant who is proved to their satisfaction to be the widow or a child of the deceased, or to be entitled to the personalty of the deceased either under his will (if any) or any statute of distribution or otherwise, or to be a person entitled to take out representation (*n*), although no such representation (*n*) has been taken out, and shall be thereby discharged from all further liability in respect of the residue so paid or delivered ; or
- (c.) They may, if they think fit, require representation (*n*) to be taken out, and pay and deliver the residue to the legal personal representative (*n*) of the deceased.

(2.) Every person to whom any such residue is so paid or delivered shall apply the same in due course of administration.

Dealing
with de-
ceased sea-
man's pro-
perty
when he
leaves a
will.
1854, s.
200.

177.—(1.) Where a deceased seaman (*n*) or apprentice (*o*) has left a will the Board of Trade may refuse to pay or deliver the above-mentioned residue ;

- (a.) If the will was made on board ship (*n*), to any person claiming under the will, unless the will is in writing, and is signed or acknowledged by the testator in the

(*n*) Defined, § 742.
(*o*) §§ 105-109.

(*p*) § 169, s. 5.
(*a*) £50 in section reproduced.

presence of, and is attested by, the master (*q*) or first or only mate (*r*) of the ship, and

- (*b*.) If the will was not made on board ship, to any person claiming under the will, and not being related to the testator by blood or marriage, unless the will is in writing, and is signed or acknowledged by the testator in the presence of, and is attested (*s*) by, two witnesses, one of whom is a superintendent (*t*), or is a minister of religion officiating in the place in which the will is made, or, where there are no such persons, a justice, British consular officer (*u*), or an officer of customs.

(2.) Whenever the Board of Trade refuse under this section to pay or deliver the residue to a person claiming under a will the residue shall be dealt with as if no will had been made (*x*).

178.—(1.) A creditor shall not be entitled to claim from the Board of Trade the property of a deceased seaman (*q*) or apprentice (*y*), or any part thereof, by virtue of representation (*q*) obtained as creditor. Claims by creditors. 1854, a. 201.

(2.) A creditor shall not be entitled by any means whatever to obtain payment of his debt out of the property (*z*), if the debt accrued more than three years before the death of the deceased, or if the demand is not made within two years after the death.

(3.) The demand shall be made by the creditor delivering to the Board of Trade an account in writing in a form approved by the Board, stating the particulars of his demand and the place of his abode, and signed by him, and verified by a statutory declaration (*a*).

(4.) If before the demand is made, any claim to the property (*z*) of the deceased made by any person has been allowed, that Board shall give notice to the creditor of the allowance of the claim.

(*q*) Defined, § 742.

(*r*) Cf. § 92.

(*s*) § 694.

(*t*) §§ 247, 742.

(*u*) Int. Act, 1889, § 12, a. 20.

(*x*) § 176.

(*y*) §§ 105-109.

(*z*) § 169, a. 5.

(*a*) Int. Act, 1889, § 2.

(5.) If no claim has been allowed, the Board of Trade shall investigate the creditor's account, and may for that purpose require him to prove the same, and to produce all books, accounts, vouchers, and papers relating thereto; and if by means of them the creditor satisfies the Board of Trade of the justice of the demand, either in the whole or in part, the same shall be allowed and paid accordingly, so far as the property (*b*) then in the hands of the Board of Trade will extend for that purpose, and the Board of Trade shall thereby be discharged from all further liability in respect of money so paid; but if the Board are not satisfied as to the claim, or if such books, accounts, vouchers, or papers as aforesaid are not produced, and sufficient reason is not given for their non-production, the demand shall be disallowed.

(6.) In any case whatever the Board of Trade may delay the investigation of any demand made by a creditor for the payment of his debt for one year from the time of the first delivery of the demand; and if in the course of that time a claim to the property (*b*) of the deceased is made by any person as widow, next of kin, or legatee, and allowed by the Board of Trade under this Act, the Board of Trade may pay and deliver the same to that person.

(7.) Where the property (*b*) has been paid and delivered by the Board of Trade to any person as a widow, next of kin, or legatee of the deceased, whether before or after the demand made by the creditor, the creditor shall have the same rights and remedies against that person as if he had received the property as the legal personal representative of the deceased.

Dealing
with un-
claimed
property
of de-
ceased
seamen.
1854, s.
202.

45 & 46
Vict. c. 52,
s. 10.

179. Where no claim to the property (*b*) of a deceased seaman (*c*) or apprentice (*d*) received by the Board of Trade is substantiated within six years after the receipt thereof, the Board may in their absolute discretion, if any subsequent claim is made, either allow or refuse the claim, and, subject to the allowance of any such claim, shall apply

(*b*) § 169, s. 5.
(*c*) Defined, § 742.

(*d*) §§ 105-109.

such property in manner provided by Part Twelve of this Act (relating to the Mercantile Marine Fund) (*e*).

180. If any person, for the purpose of obtaining, either for himself or for any other person, any property (*f*) of any deceased seaman (*g*) or apprentice (*h*) to the sea service,—

Forgery of documents, &c., for purpose of obtaining property of deceased seamen. 1854, s. 203.

- (*a.*) forges or fraudulently alters, or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered any document purporting to show or assist in showing any right to such property (*f*); or
- (*b.*) makes use of any document which has been so forged or fraudulently altered as aforesaid; or
- (*c.*) gives or assists in giving, or procures to be given, any false evidence, knowing the same to be false; or
- (*d.*) makes or assists in making, or procures to be made, any false representation, knowing the same to be false; or
- (*e.*) assists in procuring any false evidence or representation to be given or made, knowing the same to be false,—

that person shall for each offence be liable to penal servitude for a term not exceeding five years, or to imprisonment for a term not exceeding two years with or without hard labour, or on summary conviction to imprisonment with or without hard labour for any period not exceeding six months (*i*).

181. Where a seaman (*g*) invalided or discharged from any of Her Majesty's ships is sent home in a merchant ship, and dies during the voyage, the provisions of this Act respecting the property of deceased seamen (*k*) shall apply, with this qualification, that the property shall be delivered, paid over, and disposed of in such manner as the Accountant-General of Her Majesty's Navy directs.

Property of seamen discharged from Royal Navy. 1854, s. 204.

(*e*) § 676, s. 1 (*c*).
 (*f*) § 169, s. 5.
 (*g*) Defined, § 742.

(*h*) §§ 105–109.
 (*i*) §§ 680–684.
 (*k*) §§ 169–180.

*Reim-
bursement
of Relief
to Sea-
men's
Families.*

Relief to
seamen's
families to
be charge-
able on a
certain
proportion
of their
wages.
1854, s.
192.

Reimbursement of Relief to Seamen's Families.

182.—(1.) Whenever, during the absence of any seaman (*l*) on a voyage, his wife, or any of his children or step-children, becomes chargeable to any union (*m*) or parish (*n*) in the United Kingdom, that union or parish shall be entitled to be reimbursed (*o*), out of the wages (*l*) of the seaman (*l*) earned during the voyage, any sums properly expended during his absence in the maintenance of those members of his family or any of them, so that the sums do not exceed the following proportions of his wages (*l*); (that is to say,)

(a.) if only one of those members is chargeable, one half of the wages:

(b.) if two or more of those members are chargeable, two thirds of the wages.

(2.) If during the absence of the seaman (*l*) any sums have been paid by the owner of his ship to or on behalf of any such member as aforesaid, under an allotment note (*p*) made by the seaman in favour of the member, any claim for reimbursement as aforesaid (*q*) shall be limited to the excess (if any) of the proportion of the wages hereinbefore mentioned (*q*) over the sums so paid.

Notice to
owner, and
enforce-
ment of
charge.
1854, s.
193.

183.—(1.) For the purpose of obtaining such reimbursement as aforesaid (*q*), the board of guardians (*r*) in a poor law union (*r*) in England or Ireland, and the inspector of the poor (*s*) in any parish in Scotland, may give to the owner of the ship (*l*) in which the seaman (*l*) is serving a notice in writing stating the proportion (*q*) of the seaman's wages (*l*) upon which it is intended to make a claim, and requiring the owner to retain such proportion in his hands for a period to be therein mentioned, not exceeding twenty-one days from the time of the seaman's (*l*) return to his

(*l*) Defined, § 742.

(*m*) 4 & 5 Will. IV., c. 76, § 109;
see Int. Act, 1889, § 16.

(*n*) Int. Act, 1889, § 5.

(*o*) Sir F. Jeune, in *The Highland
Chief* (1892), P. 76, treats this as a

"deduction" to be included in the
account under § 132.

(*p*) §§ 141-144.

(*q*) § 182, s. 1.

(*r*) Int. Act, 1889, § 16.

(*s*) 8 & 9 Vict. c. 83, § 32.

port (*t*) of discharge, and also requiring the owner immediately on the seaman's (*t*) return to give notice in writing thereof to the board or inspector.

(2.) The owner, after receiving any such notice, shall retain the said proportion of wages (*t*), and give notice of the seaman's (*t*) return accordingly, and shall likewise give to the seaman (*t*) notice of the intended claim.

(3.) The board (*u*) or inspector (*x*) may, upon the seaman's (*t*) return, apply to a court of summary jurisdiction (*y*) having jurisdiction in the union (*z*) or parish (*a*) for an order for reimbursement (*b*); and that court may make a summary order for the reimbursement to the whole extent claimed, or to such lesser amount as the court, under the circumstances, think fit; and the owner shall pay to the board or inspector out of the seaman's wages (*t*) the amount so ordered to be paid by way of reimbursement, and shall pay the residue of the wages (*t*) to the seaman (*t*).

(4.) If no order for reimbursement (*b*) is obtained within the period mentioned in the notice given to the owner as aforesaid, the proportion of wages (*t*) to be retained by him shall immediately on the expiration of that period and without deduction (*c*) be payable to the seaman (*t*).

Destitute Seamen.

*Destitute
Foreign
Seamen.*

184.—(1.) If any person being a native of any country in Asia or Africa, or of any island in the South Sea or the Pacific Ocean, or of any other country not having a consular officer (*d*) in the United Kingdom, is brought to the United Kingdom in a ship (*t*), British or foreign, as a seaman (*t*), and is left in the United Kingdom, and within six months of his being so left becomes chargeable upon the poor rate, or commits any act by reason whereof he is liable to be convicted as an idle and disorderly person, or any other act of vagrancy, the master (*t*) or owner (*e*) of the ship (*t*),

Penalty on
masters of
ships leav-
ing certain
seamen in
distress in
the United
Kingdom.
17 & 18
Vict. c.
120, s 16.

(*t*) Defined, § 742.

(*u*) Int. Act, 1889, § 16.

(*x*) 8 & 9 Vict. c. 83, § 32.

(*y*) Int. Act, 1889, § 13, s. 12.

(*z*) 4 & 5 Will. IV. c. 76, § 109;
see Int. Act, 1889, § 16.

(*a*) Int. Act, 1889, § 5.

(*b*) § 182, s. 1.

(*c*) § 132.

(*d*) § 742.

(*e*) Includes person having equitable interest; § 58, and note.

or in case of a foreign ship (*f*) the person who is consignee of the ship at the time of the seaman being so left as aforesaid, shall be liable to a fine not exceeding thirty pounds (*g*), unless he can show that the person left as aforesaid quitted the ship (*f*) without the consent of the master (*f*), or that the master (*f*), owner, or consignee, has afforded him due means of returning to his native country, or to the country in which he was shipped.

(2.) The court (*f*) inflicting the fine may order the whole or any part of the fine to be applied towards the relief or sending home of the person left.

Relief of
destitute
lascars.
18 & 19
Vict. c.
91, ss. 22,
24.

185.—(1.) It shall be the duty of the Secretary of State (*h*) in Council of India to take charge of and send home or otherwise provide for all lascars or other natives of India (*i*) who are found destitute in the United Kingdom.

(2.) If any such destitute person is relieved and maintained by a board of guardians (*k*) in a poor law union (*k*) in England or Ireland, or by the inspector of poor (*l*) in any parish in Scotland, the board or inspector may give notice thereof in writing (*m*) to the Secretary of State (*h*) in Council of India specifying, so far as is practicable, the following particulars; namely—

(a.) the name of the person relieved or maintained; and
(b.) the part of India (*i*) of which he professes to be a native; and

(c.) the name of the ship (*f*) in which he was brought to the United Kingdom; and

(d.) the port (*f*) abroad from which the ship sailed, and the port (*f*) in the United Kingdom at which the ship arrived when he was so brought to the United Kingdom, and the time of the arrival.

4 Geo. IV.
c. 80, s. 34.
3 & 4 Will.
IV. c. 93.

(3.) The Secretary of State (*h*) in Council of India shall repay to the board of guardians (*k*) or inspector (*l*) out of the revenues of India (*g*) all moneys duly expended by them or him in relieving or maintaining the destitute

(*f*) Defined, § 742.

(*g*) How recovered, §§ 680-684; how applicable, §§ 699, 716; and s. 2 of this section.

(*h*) Int. Act, 1889, § 12, s. 3.

(*i*) Int. Act, 1889, § 18, s. 5.

(*k*) Ibid. § 16.

(*l*) 8 & 9 Vict. c. 83, § 32.

(*m*) Int. Act, 1889, § 20.

person after the time at which the notice is given (*n*), and any money so paid or otherwise paid by the said Secretary of State (*o*), on account of the relief or maintenance or passage home of the destitute person, shall be a joint and several debt due to the said Secretary of State (*o*) from the master (*p*) and owner (*q*) of the ship by which the destitute person was brought to the United Kingdom.

(4.) This section shall apply only to such lascars or other natives of India (*r*) as have been brought to the United Kingdom either as seamen (*p*), or for employment as seamen (*p*), or for employment by the owner (*q*) of the ship (*p*) bringing them.

Leaving Seamen abroad.

*Leaving
Seamen
abroad.*

186.—(1.) In the following cases, namely—

(a.) Where a British (*s*) ship is transferred or disposed of at any port (*p*) out of Her Majesty's dominions, and a seaman (*p*) or apprentice (*t*) belonging thereto does not in the presence of some British consular officer (*u*), or, if there is no such officer there, in the presence of one or more respectable British merchants residing at the port (*p*) and not interested in the ship, signify his consent in writing to complete the voyage if continued; and

Discharge
of seamen
in foreign
countries.
1854, s.
205.

(b.) Where the service of any seaman (*p*) or apprentice (*t*) belonging to any British (*s*) ship (*p*) terminates at any port out of Her Majesty's dominions,

the master (*p*) shall give to that seaman (*p*) or apprentice (*t*) a certificate of discharge (*x*) in a form approved by the Board of Trade, and in the case of any certificated officer whose certificate he has retained shall return such certificate to him (*y*).

(2.) The master shall also besides paying the wages (*p*) to which the seaman (*p*) or apprentice (*t*) is entitled, either—

(*n*) Sub-s. 2.

(*o*) Int. Act, 1889, § 12, s. 3.

(*p*) Defined, § 742.

(*q*) Includes person having equitable interest; § 58, and note.

(*r*) Int. Act, 1889, § 18, s. 5.

(*s*) See note to § 1.

(*t*) §§ 105–109.

(*u*) Int. Act, 1889, § 12, s. 20.

(*x*) Cf. § 128.

(*y*) Cf. § 103.

1897 *Lawrence*
Steel, Young & Co
in appeal. held crew
was not to be passed
to the port at which he was
shipped or to a port to which
he agreed to go
 1898 *Pennell* *Charter of*
5 m. c/o. with order

(a.) provide him with adequate employment on board some other British (z) ship (a) bound to the port (a) in Her Majesty's dominions at which he was originally shipped, or to a port (a) in the United Kingdom agreed to by the seaman (a); or

(b.) furnish the means of sending him back to some such port (a); or

(c.) provide him with a passage home; or

(d.) deposit with the consular officer (b) or merchants as aforesaid (c) such a sum of money as is by the officer or merchants deemed sufficient to defray the expenses of his maintenance and passage home.

(3.) The consular officer (b) or merchants shall endorse upon the agreement with the crew (d) of the ship which the seaman (a) or apprentice (e) is leaving the particulars of any payment, provision, or deposit made under this section.

(4.) If the master (a) fails (f), without reasonable cause, to comply with any requirement of this section, the expenses of maintenance or passage home,—

(a.) if defrayed by the seaman (a) or apprentice (e) shall be recoverable (g) as wages (a) due to him; and

(b.) if defrayed by the consular officer (b) or by any other person shall (unless the seaman (a) or apprentice (e) has been guilty of barratry) (h) be a charge upon the ship (a) to which the seaman (a) or apprentice (e) belonged and upon the owner for the time being thereof and may be recovered against the owner, with costs, at the suit of the consular officer (b) or other person defraying the expenses, or, in case they have been allowed to him out of public money, as a debt to the Crown, either by ordinary process of law, or in the manner in which wages can be recovered under this Act (g).

(z) See note to § 1.

(a) Defined, § 742.

(b) Int. Act, 1889, § 12, s. 20.

(c) § 186, s. 1 (a.).

(d) § 113.

(e) §§ 105–109.

(f) Includes refusal; § 742.

(g) §§ 164–166.

(h) Barratry is any wilful act of wrong done by the seamen against the ship or the cargo, though with the intent of benefiting the ship-owner. See Scrutton on Charter-parties, article 88.

187. The master (*i*) of, or any other person belonging to, a British (*k*) ship (*i*), shall not wrongfully force on shore and leave behind, or otherwise wilfully and wrongfully leave behind, in any place on shore or at sea, in or out of Her Majesty's dominions, a seaman (*i*) or apprentice (*l*) to the sea service before the completion of the voyage for which he was engaged or before the return of the ship to the United Kingdom, and if he does so, he shall in respect of each offence be guilty of a misdemeanor (*m*). Penalty for forcing seamen on shore or leaving them behind. 1854, s. 206.

188.—(1.) The master (*i*) of a British (*k*) ship (*i*) shall not discharge a seaman (*i*) or apprentice (*l*) to the sea service abroad, or leave him behind abroad, ashore, or at sea, unless he previously obtains, endorsed on the agreement with the crew (*n*), the sanction, or in the case of leaving behind, the certificate— Seamen not to be discharged or left abroad unless sanction or certificate obtained. 1854, ss. 207, 208.

(*a*.) at any place in a British possession (*o*) of a superintendent (*p*) (or in the absence of any such superintendent (*p*) of the chief officer of customs at or near the place); and

(*b*.) at any place elsewhere of the British consular officer (*q*) for the place, or, in the absence of any such officer, of two merchants resident at or near the place, or, if there is only one merchant so resident, of that merchant,

but nothing in this section shall require such sanction where the discharge is in the British possession (*o*) where the seaman (*i*) was shipped.

(2.) The certificate (*r*) shall state in writing the fact and cause of the seaman (*i*) being left behind whether the cause be unfitness or inability to proceed to sea, desertion (*s*), or disappearance.

(3.) The person to whom an application is made for a

(*i*) Defined, § 742.

(*k*) Note to § 1.

(*l*) §§ 105–109.

(*m*) Procedure, §§ 680–684; fines how applicable, §§ 699, 716.

(*n*) § 113.

(*o*) Int. Act, 1889, § 18, s. 2.

(*p*) §§ 247, 742.

(*q*) Int. Act, 1889, § 12, s. 20.

(*r*) § 188, s. 1.

(*s*) § 221. If given in the absence of the seaman, such a certificate is not conclusive evidence of desertion, in answer to a claim for wages in England. *Lewis v. Jewhurst* (1866) 2 Asp. M. C. O. S. 489.

sanction(*t*) or a certificate(*t*) under this section may, and, if not a merchant, shall, examine into the grounds on which a seaman or apprentice is to be discharged or left abroad, and for that purpose may, if he thinks fit, administer oaths(*u*), and may grant or refuse the sanction or certificate as he thinks just.

(4.) If a master(*x*) acts in contravention of this section, he shall be guilty of a misdemeanor(*y*), and in any legal proceeding for the offence it shall lie on the master(*x*) to prove that the sanction(*t*) or certificate(*t*) was obtained, or could not be obtained.

Accounts
and pay-
ment of
wages in
case of
seamen
left
abroad.
1854, ss.
209, 210.
1862, s. 19.

189.—(1.) (*z*) Where a master(*x*) of a British (*a*) ship(*x*) leaves a seaman(*x*) or apprentice(*b*) on shore abroad, whether within or without Her Majesty's dominions, on the ground of his unfitness or inability to proceed on the voyage, he shall deliver to the person signing the certificate above-mentioned(*t*), a full and true account of the wages(*x*) due to the seaman(*x*) or apprentice(*b*), and if the said person is a consular officer(*c*) shall deliver the account in duplicate.

(2.) If a master(*x*) fails(*d*) without reasonable cause to deliver the account he shall for each offence be liable to a fine not exceeding ten pounds(*e*), and if he delivers a false account he shall for each offence be liable to a fine not exceeding twenty pounds(*e*), in addition in each case to the payment of the wages(*x*).

(3.) The master(*x*) shall pay the amount of wages(*x*) due to a seaman(*x*) or apprentice(*b*) so left abroad as afore-said(*f*), if he is left in a British possession(*g*) to the seaman(*x*) or apprentice(*b*) himself, and if he is left elsewhere to the British consular officer(*c*).

(*t*) § 188, s. 1.

(*u*) Int. Act, 1889, § 3.

(*x*) Defined, § 742.

(*y*) §§ 680-684; fines how applicable, §§ 699, 716.

(*z*) A master unable to proceed through illness is entitled to the remedies of § 167, in spite of this section, and to his wages at once. *The*

Rajah of Cochin (1859), Swabey, 473.

(*a*) Note to § 1.

(*b*) §§ 105-109.

(*c*) Int. Act, 1889, § 12, s. 20.

(*d*) Includes refusal; § 742.

(*e*) How recovered, §§ 680-684; how applicable, §§ 699, 716.

(*f*) Sub-s. 1.

(*g*) Int. Act, 1889, § 18, s. 2.

(4.) The payment shall be made, whenever it is practicable, in money, and, when not so practicable, by bill drawn on the owner of the ship (*i*), but if payment is made by bill—

(*a.*) the person signing the certificate (*k*) shall certify by endorsement on the bill that the same is drawn for seamen's wages (*i*), and shall also endorse on the agreement with the crew (*l*) the amount for which the bill is drawn, and such further particulars as the Board of Trade requires;

(*b.*) if the bill is drawn by the master (*i*), the owner (*m*) of the ship shall be liable to pay the amount to the holder or endorsee thereof; and it shall not be necessary in any proceeding against the owner upon the bill to prove that the master had authority to draw it;

(*c.*) a bill purporting to be drawn and endorsed under this section, shall if produced out of the custody of the Board of Trade or of the Registrar-General of Shipping and Seamen (*n*), or of any superintendent (*o*), be admissible in evidence; and any endorsement on any such bill purporting to be made in pursuance of this section (*p*) shall also be admissible as evidence of the facts stated in the endorsement.

(5.) If a master (*i*) fails (*q*), without reasonable cause, to make such payment of wages (*i*) as provided by this section, he shall for each offence be liable in addition to the payment of the wages (*i*) to a fine not exceeding ten pounds (*r*).

(6.) Where payment is made to a British consular officer (*s*), that officer shall, if satisfied with the account (*t*), endorse on one of the duplicates (*t*) thereof a receipt for the payment, and return it to the master (*i*), and the master (*i*) shall deliver the duplicate (*t*) within forty-eight

(*i*) Defined § 742.

(*k*) § 188, s. 1.

(*l*) § 113.

(*m*) Note to § 58.

(*n*) § 251.

(*o*) §§ 247, 742.

S.M.S.A.

(*p*) Sub-s. 4 (*a.*), *supra*.

(*q*) Includes refusal; § 742.

(*r*) How recovered, §§ 680-684; how applicable, §§ 699, 716.

(*s*) Int. Act, 1889, § 12, s. 20.

(*t*) Sub-s. 1, *supra*.

hours of his return to his port (*u*) of destination in the United Kingdom to the superintendent (*x*) at that port.

(7.) The British consular officer (*y*) shall retain the other duplicate (*z*) of the account (*z*), and shall deal with the sum so paid to him in the following manner, namely—

- (a.) if the seaman (*u*) or apprentice (*a*) subsequently obtains employment at or quits the port (*u*) at which the payment has been made, he shall deduct out of the sum any expenses incurred by him in respect of the maintenance of the seaman or apprentice under this Act (*b*), except such as the owner or master is by this Act required to defray (*c*), and shall pay the remainder to the seaman (*u*) or apprentice (*a*), and deliver to him an account of the sums so received and expended on his behalf;
- (b.) if the seaman (*u*) or apprentice (*a*) dies before his ship (*u*) quits the port (*u*), he shall deal with the sum as part of the property of a deceased seaman (*d*); and
- (c.) if the seaman (*u*) or apprentice (*a*) is sent home at the public expense (*e*) under this Act, he shall account for the sum to the Board of Trade; and the sum, after deducting any expenses duly incurred in respect of the seaman (*u*) or apprentice (*a*), except such expenses as the master (*a*) or owner (*f*) of the ship is required by this Act to pay (*c*), shall be dealt with as wages (*u*) of the seaman or apprentice (*a*).

*Distressed
Seamen.*

Regulations as to relief and maintenance of distressed seamen.
18 & 19
Vict. c. 91,
s. 16.
1862, s. 22.

Distressed Seamen (g).

190. The Board of Trade may make regulations with respect to the relief, maintenance, and sending home of seamen (*u*) and apprentices (*a*) found in distress abroad, and may, by those regulations (in this Act referred to as the distressed seamen regulations) make such conditions as they think fit with regard to that relief, maintenance,

(u) Defined, § 742.

(x) §§ 247, 742.

(y) Int. Act, 1889, § 12, s. 20.

(z) Sub.-s. 1, *supra*.

(a) §§ 105-109.

(b) § 191.

(c) §§ 186, 193.

(d) §§ 169-180.

(e) § 192.

(f) Note to § 58.

(g) For application of this part, see Preliminary Note to this Part, and §§ 260-263.

and sending home, and a seaman(*h*) shall not have any right to be relieved, maintained, or sent home except in the cases and to the extent and on the conditions provided by those regulations.

191.—(1.) The following authorities, that is to say, <sup>Provisions for main-
tenance and relief
of dis-
tressed
seamen.
1854, s.
11.
18 & 19
Vict. c. 19,
s. 16.</sup> governors (*i*) of British possessions (*k*), British consular officers (*l*), and other officers of Her Majesty in foreign countries shall, and, in places where there are no such officers, any two resident British merchants, or if there is only one British merchant so resident that merchant, may in accordance with and on the conditions prescribed by the distressed seamen regulations (*m*), provide for the maintenance, until a passage home can be procured, of the following seamen (*h*) and apprentices (*n*) (who are in this Act included in the term distressed seamen) namely,—

- (a.) seamen (*u*) and apprentices (*n*) to the sea service, whether subjects of Her Majesty or not, who by reason of having been discharged or left behind abroad or shipwrecked from any British (*o*) ship (*h*), or any of Her Majesty's ships, are in distress in any place abroad; and
- (b.) seamen (*h*) and apprentices (*n*) to the sea service, being subjects of Her Majesty, who have been engaged by any person acting either as principal or agent to serve in a ship (*h*) belonging to the Government or to a subject or citizen of a foreign country, and are in distress in any place abroad.

(2.) For the purpose of providing a distressed seaman (*p*) with a passage home, the authority shall put him on board a British (*o*) ship (*h*) bound either to the United Kingdom or to the British possession (*k*) to which the seaman (*h*) belongs (as the case requires), which is in want of men to make up its complement; or if there is no such ship, then the authority shall provide the seaman

(*h*) Defined, § 742.

(*i*) Int. Act, 1889, § 18, s. 6.

(*k*) Ibid. § 18, s. 2.

(*l*) Ibid. § 12, s. 20.

(*m*) § 190.

(*n*) §§ 105–109.

(*o*) Note to § 1.

(*p*) § 191, s. 1.

with a passage home as soon as possible in any ship (*r*), British (*s*) or foreign, bound as aforesaid.

(3.) The authority shall endorse on the agreement with the crew (*t*) of the ship, if a British (*s*) ship, on board of which a distressed seaman (*u*) is placed, the name of every person so placed on board with any particulars directed by the distressed seamen regulations (*x*) to be endorsed.

(4.) The authority shall be paid in respect of the expenses of the maintenance and conveyance of distressed seamen (*u*) such sums as the Board of Trade may allow, and those sums shall, on the production of the bills of disbursements, with the proper vouchers, be paid as hereinafter provided (*y*).

Masters of ships compelled to take distressed seamen. 1854, s. 212.

192.—(1.) The master (*r*) of every British (*s*) ship (*r*) so bound as aforesaid (*z*) shall receive on board his ship, and afford a passage and maintenance to all distressed seamen (*u*) whom he is required under this Act (*u*) to take on board his ship, not exceeding one for every fifty tons burden, and shall during the passage provide every such distressed seaman (*u*) with a proper berth or sleeping place, effectually protected against sea and weather (*a*).

(2.) On the production of a certificate, signed by the authority by whose directions any such distressed seaman (*u*) was received on board, specifying the number and names of the distressed seamen (*u*) and the time when each of them was received on board, and on a declaration made by the master (*r*) before a justice of the peace (*b*), and verified by the Registrar-General of Shipping and Seamen (*c*), stating the number of days during which each distressed seaman (*u*) has received maintenance (*d*), and stating the full complement of his crew and the actual number of seamen (*r*) and apprentices employed on board his ship, and every variation in that number, whilst the distressed seaman (*u*) received

(*r*) Defined, § 742.

(*s*) See note to § 1.

(*t*) § 118.

(*u*) § 191, s. 1.

(*x*) § 190.

(*y*) § 193.

(*z*) § 191, s. 2.

(*a*) As to the discipline of such seamen, see § 237.

(*b*) May be made before a commissioner for oaths; § 698.

(*c*) § 251.

(*d*) § 192, s. 1.

maintenance (*d*), the master (*e*) shall be entitled to be paid, in respect of the maintenance and passage (*d*) of every seaman (*e*) or apprentice (*f*) so conveyed, maintained, and provided for by him, exceeding the number (if any) wanted to make up the complement of his crew, such sum per diem as the Board of Trade allow.

(3.) If any master (*e*) of a British (*g*) ship (*e*) fails (*h*) without reasonable cause to comply with this section in the case of any seaman (*e*) or apprentice (*f*), he shall for each offence be liable to a fine not exceeding one hundred pounds (*i*).

193.—(1.) Where any expenses on account of any such distressed seaman (*k*) or apprentice (*f*) as follows, namely:—

(a.) Any seaman (*e*) or apprentice (*f*) belonging to a British ship (*g*), who has been discharged or left behind abroad, without full compliance on the part of the master with the provisions in that behalf in this Act contained (*l*);

(b.) A subject of Her Majesty, who has been engaged to serve in a ship (*e*) belonging to the Government or to a subject or citizen of a foreign country, either for his maintenance, necessary clothing, conveyance home, or, in case of death, for his burial, or otherwise in accordance with this Act are incurred by or on behalf of the Crown, or are incurred by the Government of a foreign country, and repaid to that Government by or on behalf of the Crown, those expenses, together with the wages (*e*), if any, due to the seaman (*e*) or apprentice (*f*), shall be a charge upon the ship (*e*), whether British (*g*) or foreign, to which such distressed seaman (*k*) or apprentice belonged, and shall be a debt to the Crown from the master (*e*) of the ship, or from the owner of the ship for the time being, and also, if the ship be a foreign ship, from the

Recovery of expenses of relief of distressed seamen. 1854, s. 213. 18 & 19 Vict. c. 19, s. 16.

(*d*) § 192, s. 1.

(*e*) Defined, § 742.

(*f*) §§ 105–109.

(*g*) See note to § 1.

(*h*) Includes refusal; § 742.

(*i*) How recovered, §§ 680–684; how applicable, §§ 699, 716.

(*k*) § 191, s. 1.

(*l*) §§ 186–189.

person, whether principal or agent, who engaged the seaman (*m*) or apprentice (*n*) for service in the ship (*o*).

(2.) The debt, in addition to any fines which may have been incurred (*p*), may be recovered by the Board of Trade on behalf of the Crown either by ordinary process of law, or in the court and manner in which wages may be recovered by seamen (*q*).

(3.) In any proceeding for such recovery (*q*) the production of the account (if any) of the expenses furnished in accordance with this Act (*r*) or the distressed seamen regulations (*s*), and proof of payment of the expenses by or on behalf of the Board of Trade, shall be sufficient evidence that the expenses were incurred or repaid under this Act by or on behalf of the Crown (*t*).

Payment
of ex-
penses out
of mercan-
tile marine
fund.
45 & 46
Vict. c. 55,
ss. 3, 4.

*Volunteer-
ing into
the Navy.*

Seamen
allowed to
leave their
ships in
order to
enter the
navy.
1854, s.
214.

194. All expenses paid under this Act (*t*) by or on behalf of the Crown for the relief of distressed seamen (*u*), shall be paid out of the Mercantile Marine Fund (*v*), and all sums received or recovered towards those expenses shall be carried to that fund (*x*).

Volunteering into the Navy (y).

195.—(1.) A seaman (*m*) may leave his ship (*m*) for the purpose of forthwith entering the naval service of Her Majesty, and in that case shall not by reason of so leaving his ship be deemed to have deserted therefrom (*z*), or otherwise be liable to any punishment or forfeiture whatever (*a*).

(2.) A stipulation introduced into any agreement whereby a seaman (*m*) is declared to incur a forfeiture or be exposed to a loss in case he enters the naval service of Her Majesty shall be void, and if a master (*m*) or owner (*b*) causes any

(*m*) Defined, § 742.

(*n*) §§ 105-109.

(*o*) Procedure; sub-s. 2.

(*p*) How recovered, §§ 680-684; how applicable, §§ 699, 716.

(*q*) §§ 164-166.

(*r*) § 191, s. 4.

(*s*) § 191, s. 1.

(*t*) § 193, s. 1.

(*u*) § 191.

(*v*) Part XII., § 677, s. (*e*).

(*x*) § 676 (*d*).

(*y*) For application of this part, see Preliminary Note to this Part, and §§ 260-266.

(*z*) § 221; and see *The Amphitrite* (1832), 2 Hagg. 403.

(*a*) §§ 221-225.

(*b*) Includes equitable owners; § 58, and note.

such stipulation to be so introduced he shall for each offence be liable to a fine not exceeding twenty pounds (c).

196.—(1.) If a seaman (d), without having previously committed an act amounting to and treated by the master as desertion (e), leaves his ship (d) in order to enter the naval service of Her Majesty, and is received into that service, the master (d) shall deliver to him his effects on board the ship, and shall pay, subject to all just deductions (f), the proportionate amount of his wages (d) down to the time of his entering Her Majesty's service, to the officer authorized to receive the seaman (d) into that service (g), either in money or by bill drawn upon the owner, and payable at sight to the order of the Accountant-General of the Navy; and the receipt of that officer shall be a discharge for the money or bill so given; and the bill shall be exempt from stamp duty.

Money and effects of seamen volunteering into navy. 1854, s. 215.

(2.) If the master (d) fails (h) so to deliver the seaman's effects, or to pay his wages (d), as by this section required, he shall, in addition to his liability to deliver and pay the same, be liable for each offence to a fine not exceeding twenty pounds (c).

(3.) If any such bill be not duly paid when presented, the Accountant-General of the Navy or the seaman (d) on whose behalf the bill is given, may sue thereon, or may recover the wages (d) due by all or any of the means by which wages (d) due to seamen are recoverable (i).

197.—(1.) Where the wages (d) of a seaman (d) received into Her Majesty's naval service are paid in money, the money shall be credited in the ship's ledger to the account of the seaman.

Wages of seamen received into navy. 1854, ss. 215-220.

(2.) Where the wages are paid by bill, the bill shall be noted in the ship's ledger, and sent to the Accountant-General of the Navy, who shall cause the same to be

(c) How recovered, §§ 680-684; how applied, §§ 699, 716.

(d) Defined § 742.

(e) § 221; and see *The Amphitrite* (1832), 2 Hagg. 403.

(f) § 132.

(g) To be entered in the official log-book. See § 239, s. 5 (c.).

(h) Includes refusal; § 742.

(i) §§ 164-166.

presented for payment, and shall credit the produce thereof to the account of the seaman.

(3.) An officer who receives any such bill shall not be subject to any liability in respect thereof, except for the safe custody thereof until sent to the Accountant-General as aforesaid.

(4.) The wages (*k*) of the seaman shall not be paid to him until the time at which he would have been entitled to receive the same if he had remained in the service of the ship (*k*) which he has quitted for the purpose of entering Her Majesty's service.

(5.) If the owner (*l*) or master (*k*) of the ship shows to the satisfaction of the Admiralty, that he has paid or properly rendered himself liable to pay, an advance (*m*) of wages to or on account of the seaman (*k*), and has satisfied that liability, and that the seaman has not at the time of quitting his ship duly earned the advance by service therein, the Admiralty may pay to the owner or master (*k*) so much of the advance as had not been duly earned, and deduct the sum so paid from any wages (*k*) of the seaman (*k*) earned or to be earned in the naval service of Her Majesty.

(6.) Where in consequence of a seaman (*k*) so leaving his ship and entering Her Majesty's service, it becomes necessary for the safety and proper navigation of the ship to engage any substitute, and the wages or other remuneration paid to the substitute for subsequent service exceed the wages or remuneration which would have been payable to the seaman under his agreement (*n*) for similar service, the master (*k*) or owner (*l*) of the ship may apply to the High Court for a certificate authorizing the repayment of the excess, and the application shall be made and the certificate granted in accordance with rules of court (*o*).

(*k*) Defined, § 742.

(*l*) Would include an equitable owner liable to pay wages. See note to § 58.

(*m*) § 140.

(*n*) § 113.

(*o*) This provision is substituted for the elaborate procedure contained in § 218 of the Act of 1854. Rules

of court have been (Dec. 10, 1894) made directing as follows:—

3. (1.) Any application to the High Court under § 197 of the Act shall be made to the Admiralty Registrar, and shall be in such form and shall be accompanied by such documents and by such statements, whether on oath or otherwise, as the President of

(7.) The certificate (*p*) shall be sent to the applicant or his solicitor or agent, and a copy thereof shall be sent to the Accountant-General of the Navy; and the Accountant-General shall, upon delivery to him of the original certificate together with a receipt in writing purporting to be a receipt from the applicant, pay to the person delivering the certificate, out of the moneys granted by Parliament for Navy services, the amount mentioned in the certificate; and the certificate and receipt shall absolutely discharge the Accountant-General and Her Majesty from all liability in respect of the moneys so paid or of the application thereof.

(8.) If any person in making or supporting any application under this section—

- (a.) forges or fraudulently alters, or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered, any document; or
- (b.) presents or makes use of any document so forged or fraudulently altered; or

the Probate, Divorce, and Admiralty Division directs.

(2.) The registrar shall on receiving the application, give written notice thereof and of the sum claimed to the Admiralty, and shall proceed to examine the application, and shall, if necessary, apply to the Registrar-General of Shipping and Seamen to produce any papers in his possession relating thereto, and may call for further evidence.

(3.) If the registrar considers that the whole of the claim is just, he shall give a certificate accordingly; but if he considers that the claim or any part thereof is not just, he shall give notice of his opinion, in writing under his hand, to the person making the application, or his solicitor or agent.

(4.) If within 16 days from the giving of the last-mentioned notice the person to whom the notice is given does not cause to be left at the Admiralty Registry a written notice demanding that the application be referred to the judge, the registrar shall finally decide thereon, and

certify accordingly.

(5.) If the notice is left as aforesaid, the application shall stand referred to the judge in chambers, and his decision thereon shall be final, and the registrar shall certify the same accordingly.

(6.) The judge and registrar shall in any proceeding under these Rules have full power to administer oaths, and to exercise all the ordinary powers of the court, as in any other proceeding within its jurisdiction; and the judge or registrar (as the case may be) may, if he thinks fit, allow for the costs of any such proceeding any sum not exceeding £5 for each seaman in respect of whom application is made; and that sum shall be added to the sum authorized to be repaid under the Act, and shall be certified by the registrar accordingly.

4. These Rules may be cited as "The Rules of the Supreme Court (Merchant Shipping), 1894." See Appendix, 2.

(*p*) Sub-s. 6.

(c.) gives, assists in giving, or procures to be given, any false evidence, knowing the same to be false; or

(d.) makes, assists in making, or procures to be made, any false representation, knowing the same to be false,

that person shall in respect of each offence be guilty of a misdemeanor (q).

*Provisions,
Health,
and Accommodation.*

Com-
plaints as
to pro-
visions or
water.
1854, ss.
221, 222.

Provisions, Health, and Accommodation (r).

198.—(1.) If three or more of the crew (s) of a British (t) ship (u) consider that the provisions or water for the use of the crew are at any time of bad quality, unfit for use, or deficient in quantity, they may complain thereof to any of the following officers, namely, an officer in command of one of Her Majesty's ships, a British consular officer (x), a superintendent (y), or a chief officer of customs (u), and the officer may either examine the provisions or water complained of or cause them to be examined.

(2.) If the officer, or person making the examination, finds that the provisions or water are of bad quality and unfit for use, or deficient in quantity, he shall signify it in writing (z) to the master (u) of the ship (u), and if the master of the ship does not thereupon provide other proper provisions or water in lieu of any so signified to be of bad quality and unfit for use, or does not procure the requisite quantity of any provisions or water so signified to be deficient in quantity, or uses any provisions or water so signified to be of bad quality and unfit for use, he shall for each offence be liable to a fine not exceeding twenty pounds (q).

(3.) The officer directing, or the person making, the examination shall enter a statement of the result of the

(q) Procedure, §§ 680-684; fine how applicable, §§ 699, 716.

(r) As to application of this part, see Preliminary Note to Part II., and §§ 260-263.

(s) "Crew" is not defined. See discussion of its meaning in notes to

§§ 113, 114.

(t) Note to § 1.

(u) Defined § 742.

(x) Int. Act, 1889, § 12, s. 20.

(y) §§ 247, 742.

(z) Includes "print;" Int. Act 1889, § 20.

examination in the official log-book (a), and send a report thereof to the Board of Trade, and that report shall be admissible in evidence in manner provided by this Act (b).

(4.) If the said officer certifies in that statement that there was no reasonable ground for the complaint, each of the complainants shall be liable to forfeit (c) to the owner out of his wages (d) a sum not exceeding one week's wages.

199. In either of the following cases ; (that is to say,)

(i.) if during a voyage the allowance of any of the provisions for which a seaman (d) has by his agreement (e) stipulated is reduced (f) (except in accordance with any regulations for reduction by way of punishment contained in the agreement with the crew (e), and also except for any time during which the seaman wilfully and without sufficient cause refuses or neglects to perform his duty, or is lawfully under confinement for misconduct either on board or on shore) ; or

Allowance for short or bad provisions. 1854, s. 223.

(ii.) if it is shown that any of those provisions are or have during the voyage been bad in quality and unfit for use ;

the seaman (d) shall receive, by way of compensation for that reduction, or bad quality, according to the time of its continuance, the following sums, to be paid to him in addition to, and to be recoverable as (g), wages (d) ; (that is to say,)

(a.) if his allowance is reduced by not more than one third of the quantity specified in the agreement, a sum not exceeding fourpence a day :

(b.) if his allowance is reduced by more than one third of that quantity, eightpence a day :

(c.) in respect of bad quality as aforesaid, a sum not exceeding one shilling a day :

But if it is shown to the satisfaction of the court (d) before whom the case is tried that any provisions, the allowance

(a) §§ 239, 240.

(b) § 695.

(c) § 132.

(d) Defined, § 742.

(e) § 113.

(f) Cf. *The Josephine* (1856),

Swabey, 152. *Semble*, that unexpected length of the voyage through tempests would excuse the owner under the first rule in *Paradine v. Jane* (1647), Aleyn. 26.

(g) §§ 164-166.

of which has been reduced, could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the court shall take those circumstances into consideration, and shall modify or refuse compensation as the justice of the case requires (*h*).

Regulations respecting medicines, anti-scorbutics, &c. 80 & 81 Vict. c. 124, ss. 4 and 5.

200.—(1.) The Board of Trade shall issue scales of medicines and medical stores suitable for different classes of ships (*i*) and voyages, and shall also prepare or sanction books containing instructions for dispensing the same.

(2.) The owner (*k*) of every ship (*i*) navigating between the United Kingdom and any place out of the same shall provide and cause to be kept on board a supply of medicine and medical stores according to the scale appropriate to the ship (*l*), and also the said books (*l*) or one of them.

(3.) The master (*i*) or owner (*k*) of every such ship (*m*), except in the case of—

(*a*.) ships bound to European ports (*i*) or ports (*i*) in the Mediterranean Sea; and

(*b*.) such ships or classes of ships bound to ports (*i*) on the eastern coast of America, north of the thirty-fifth degree of north latitude, and to any islands or places in the Atlantic Ocean north of the same limit as the Board of Trade may exempt;

shall provide and cause to be kept on board a sufficient quantity of anti-scorbutics in accordance with the regulations in the Fifth Schedule to this Act (*n*), and those regulations shall have effect as part of this section, and the master (*i*) shall serve out the anti-scorbutics to the crew according to the said regulations, and if a seaman (*i*) or apprentice (*o*) refuses or neglects to take the anti-scorbutics when served out, that fact shall be entered in the official log-book (*p*), and the entry shall be signed by

(*h*) The court may also give general damages for matters not specifically mentioned in this section. *The Justitia* (1887), 12 P. D. 145.

(*i*) Defined, § 742.

(*k*) See note to § 58.

(*l*) § 200, s. 1.

(*m*) § sub-s. 2.

(*n*) In British possessions, see § 205 (*b*).

(*o*) §§ 105–109.

(*p*) §§ 239, 240.

the master (*q*) and by the mate or some other of the crew, and also by the medical practitioner on board, if any.

(4.) If any requirement of this section with respect to the provision of medicines (*r*), medical stores (*r*), book of instruction (*r*), or anti-scorbutics (*s*) is not complied with in the case of any ship (*q*), the owner (*t*) or master (*q*) of that ship (*q*) shall, for each offence, be liable to a fine not exceeding twenty pounds (*u*), unless he can prove that the non-compliance was not caused through his inattention, neglect, or wilful default.

(5.) If any requirement of this section with respect to the serving out of anti-scorbutics (*s*) or making an entry in the official log-book (*s*) is not complied with in the case of any ship (*q*) to which the requirement applies (*s*), the master (*q*) of the ship (*q*) shall, for each offence, be liable to a fine not exceeding five pounds (*u*), unless he can prove that the non-compliance did not arise through any neglect, omission, or wilful default on his part.

(6.) If it is proved that some person, other than the master (*q*) or owner (*t*), is in default in any case under this section, that person shall, for each offence, be liable to a fine not exceeding twenty pounds (*u*).

(7.) If any person (*x*) manufactures, sells, or keeps, or offers for sale any medicines or medical stores for use on board ship which are of bad quality, he shall, for each offence, be liable to a fine not exceeding twenty pounds (*u*).

201.—(1.) The master (*q*) of a ship (*q*) shall keep on board proper weights and measures for determining the quantities of the several provisions and articles served out, and shall allow the same to be used at the time of serving out the provisions and articles in the presence of a witness whenever any dispute arises about the quantities.

Weights and measures on board. 1854, s. 225.

(2.) If the master (*q*) of a ship (*q*) fails (*y*) without reasonable cause to comply with this section, he shall

(*q*) Defined, § 742.

(*r*) § 200, s. 1.

(*s*) Sub-s. 3.

(*t*) See note to § 58.

(*u*) How recovered, §§ 680-684;

how applied, §§ 699, 716.

(*x*) Includes corporations; Int. Act, 1889, §§ 2, 19.

(*y*) Includes refusal; § 742.

for each offence be liable to a fine not exceeding ten pounds (*z*).

Inspection
of medi-
cines,
medical
stores, and
anti-scor-
butics.
1854, s.
226.

202.—(1.) It shall be the duty of the medical inspector of ships for the port (*a*) appointed under this Part of this Act (*b*) to inspect the medicines (*c*), medical stores (*c*), and anti-scorbutics (*d*) with which a ship is required by this Part of this Act to be provided.

(2.) For the purpose of that inspection a medical inspector of ships (*b*) shall have all the powers of a Board of Trade inspector under this Act (*e*), and shall act, if appointed by a local marine board (*f*), under the direction of that board (except in special cases in which the Board of Trade require an inspection to be made), and, if appointed by the Board of Trade, under the direction of the Board of Trade.

(3.) The medical inspector of ships (*b*) shall make his inspection three clear days at least before the ship (*a*) proceeds to sea, if reasonable notice in writing for the purpose is given to him by the master (*a*), owner (*g*), or consignee, and, where the result of the inspection is satisfactory, shall not make another inspection before the ship (*a*) proceeds to sea, unless he has reason to suspect that any of the articles inspected have been subsequently removed, injured, or destroyed.

(4.) If the medical inspector of ships (*b*) is of opinion that the articles inspected are deficient in quantity or quality, or are placed in improper vessels, he shall give notice in writing to the chief officer of customs (*a*) of the port (*a*) where the ship is lying, and also to the master (*a*), owner (*a*), or consignee thereof, and the master (*a*) of the ship (*a*) before proceeding to sea shall produce to the chief officer of customs (*a*) a certificate under the hand of the same or some other medical inspector of ships (*b*), that the default found by the inspector has been remedied, and if

(*z*) How recovered, §§ 680-684;
how applied, §§ 699, 716.

(*a*) Defined, § 742.

(*b*) § 204, s. 1.

(*c*) § 200, s. 1.

(*d*) § 200, s. 3.

(*e*) §§ 728-730.

(*f*) §§ 244, 245.

(*g*) See note to § 58.

that certificate is not so produced, the ship shall be detained (*h*) until the certificate is produced, and if the ship proceeds to sea, the owner (*i*), master (*k*), or consignee of the ship shall, for each offence, be liable to a fine not exceeding twenty pounds (*l*).

203.—(1.) A medical inspector of seamen (*m*) appointed under this Part of this Act shall, on application by the owner (*n*) or master (*k*) of any ship (*k*), examine any seaman (*k*) applying for employment in that ship, and give to the superintendent (*o*) a report under his hand stating whether the seaman is in a fit state for duty at sea, and a copy of the report shall be given to the master (*k*) or owner (*n*). Medical inspection of seamen. 80 & 31 Vict. c. 124, s. 10.

(2.) The applicant for that medical examination shall pay to the superintendent (*o*) such fees as the Board of Trade direct, and those fees shall be paid into the mercantile marine fund (*p*).

204.—(1.) The local marine board (*q*) at a port (*k*) may, upon being required by the Board of Trade to do so, appoint and remove a medical inspector of ships (*k*) for the port (*k*), and subject to the control of the Board of Trade may fix his remuneration, and at any port (*k*) where there is no local marine board (*q*), the Board of Trade may appoint and remove a medical inspector of ships and may fix his remuneration. Appointment of medical inspectors. 1854, s. 226. 80 & 31 Vict. c. 124, s. 10.

(2.) The local marine board (*q*), and at a port (*k*) where there is no such local marine board the Board of Trade, may appoint and remove a medical inspector of seamen (*r*), and that inspector shall be paid out of the mercantile marine fund (*s*) such remuneration as the Board of Trade direct.

205. The governor (*t*) of a British possession (*u*) shall have the power in that possession— Appointment of medical

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| (<i>h</i>) § 692. | (<i>o</i>) §§ 247, 742. |
| (<i>i</i>) Includes equitable owner ; | (<i>p</i>) § 676 (<i>b</i>). |
| § 58, and note. | (<i>q</i>) §§ 244, 245. |
| (<i>k</i>) Defined, § 742. | (<i>r</i>) In British possessions, see |
| (<i>l</i>) Procedure ; §§ 680-684 ; fine | § 205 (<i>a</i>). |
| how applicable, §§ 699, 716. | (<i>s</i>) § 677 (<i>b</i>). |
| (<i>m</i>) § 204, s. 2. | (<i>t</i>) Int. Act, 1889, § 18, s. 6. |
| (<i>n</i>) See note to § 58. | (<i>u</i>) Int. Act, 1889, § 18, s. 2. |

inspector,
and regu-
lations as
to supply
of anti-
scorbutics
in colonies.
80 & 31
Vict. c.
114, ss.
6, 10.

(a.) of appointing medical inspectors of seamen, of charging fees for medical examinations by those inspectors, and of determining the remuneration to be paid to those inspectors; and,

(b.) subject to the laws of that possession (*x*), to make regulations concerning the supply in that possession of anti-scorbutics for the use of ships, and anti-scorbutics duly supplied in accordance with those regulations shall be deemed to be fit and proper for the use of ships (*y*).

Inspection
of pro-
visions
and water
for crew
of certain
ships.
55 & 56
Vict. c.
37, ss. 3-6.

206.—(1.) In the case of ships (*z*) trading or going from any port (*z*) of the United Kingdom through the Suez Canal, or round the Cape of Good Hope or Cape Horn, the barrels of beef and pork, the preserved meat and vegetables in tins, and the casks of flour or biscuits, intended for the use of the crew of any such ship shall be inspected by such officer and in such manner as rules under this section direct, but before shipment whenever practicable, and, if in the opinion of the inspecting officer (*a*) they are fit for that use, that officer shall certify the same accordingly in manner directed by such rules.

(2.) The inspecting officer (*a*) may at any time proceed on board any such ship (*b*) to ascertain whether the stores and water provided have been duly inspected (*b*), or, if not, whether they are of a quality fit for the use of the crew of the ship, and if he finds the same not to have been inspected, and to be deficient in quality, the ship shall be detained (*c*) until the defects are remedied to his satisfaction.

(3.) No fee for an inspection under this section shall be levied on the ship.

(4.) The Board of Trade may make rules for carrying into effect this section, but all such rules shall be laid before Parliament within three weeks after they are made, if Parliament be then sitting, and if Parliament be not

(*z*) Int. Act, 1889, § 18, s. 2.

(*y*) See § 200, s. 3.

(*z*) Defined, § 742.

(*a*) § 206, s. 5.

(*b*) Sub-s. 1.

(*c*) § 692.

then sitting, within three weeks after the beginning of the then next meeting of Parliament, and shall not come into operation until they have lain for forty days before both Houses of Parliament during the session of Parliament.

(5.) The Board of Trade may appoint officers for the purposes of any inspection under this section, and may, with the concurrence of the Treasury, assign them remuneration to be paid out of moneys provided by Parliament.

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If the Master of, or a seaman belonging to, a ship
accurs any hurt or injury in the service of the ship
or suffers from any illness (not being venereal disease, or
an illness due to his own wilful act or default or to his
own misbehaviour) the expense of procuring the necessary
surgical and medical advice and attendance and medicines
and also the expenses of the Master or seaman until he is cured
or dies or is returned to proper return port and of the
conveyance to the port; and in case of death the expense
(if any) of his burial, shall be defrayed by the owner of the ship
without any deduction on that account of his wages

*Raynor
IX Feb 4*

but not from illness from bad provisions supplied by the shipowner.

(1) Cf. § 152.
(k) Sub-a. 1.

or apprentice (*m*) whilst on board his ship (*n*) shall be defrayed in like manner (*o*).

(4.) If a seaman (*n*) or apprentice (*m*) is ill, and has, through the neglect of the master (*n*) or owner (*p*) of the ship, not been provided with proper provisions and water according to his agreement (*q*), or with such medicines (*r*), medical stores (*r*), anti-scorbutics (*r*), or accommodation (*s*), as are required by this Act, then the owner (*p*) or master (*n*), unless it can be proved that the illness has been produced by other causes (*ss*), shall be liable to pay all expenses (not exceeding on the whole three months' wages (*n*)) properly and necessarily incurred by reason of the illness, either by the seaman himself or by the Crown or any parochial or local authority on his behalf, and those expenses may be recovered as if they were wages duly earned (*t*); but this provision shall not affect any further liability of the master (*n*) or owner (*p*) for the neglect, or any other remedies (*u*) possessed by the seaman (*n*) or apprentice (*m*).

(5.) In all other cases any reasonable expenses duly incurred by the owner for any seaman (*n*) in respect of illness, and also any reasonable expenses duly incurred by the owner in respect of the burial of any seaman or apprentice (*m*) who dies whilst on service, shall, if duly proved, be deducted (*x*) from the wages (*n*) of the seaman or apprentice (*y*).

Recovery
of ex-
penses
from
owner.
1854, s.
229.

208.—(1.) If any of the expenses attendant on the illness, hurt, or injury of a seaman (*n*) or apprentice (*m*), which are to be paid under this Act (*z*) by the master (*n*) or owner (*p*), are paid by any British consular officer (*a*) or

(*m*) §§ 105–109.

(*n*) Defined, § 742.

(*o*) Sub.-s. 1.

(*p*) See note to § 58.

(*q*) § 113.

(*r*) § 200.

(*s*) § 210.

(*ss*) i.e. other causes than the failure to provide as specified, which is assumed to precede the illness.

(*t*) §§ 164–166.

(*u*) e.g. an action for damages. Cf. *The Justitia* (1887), 12 P. D. 145.

(*z*) And should be included in the account of deductions; cf. § 132, and see *The Highland Chief* (1892), P. 76, per Joune, J.

(*y*) Cf. *Secretary of Board of Trade v. Sundholm* (1879), 4 Asp. M. C. N. S. 196.

(*s*) § 207, ss. 1–4.

(*a*) Int. Act, 1889, § 12, s. 20.

other person on behalf of the Crown, or if any other expenses in respect of the illness, hurt, or injury of any seaman (*b*) or apprentice (*c*) whose wages (*b*) are not accounted for under this Act (*d*) to that officer, are so paid, those expenses shall be repaid to the officer or other person by the master (*b*) of the ship (*b*).

(2.) If the expenses are not so repaid, the amount thereof shall with costs be a charge upon the ship (*b*), and be recoverable from the master (*b*) or from the owner (*e*) of the ship for the time being, as a debt to the Crown, either by ordinary process of law or in the same court and manner as wages due to seamen (*f*).

(3.) In any proceeding for such recovery, a certificate of the facts, signed by the said officer or other person, together with such vouchers (if any) as the case requires, shall be sufficient proof that the said expenses were duly paid by that officer or other person.

209.—(1.) Every foreign-going ship (*b*), having one hundred persons or upwards on board, shall carry on board as part of her complement some duly qualified medical practitioner, and if she does not the owner (*e*) shall for every voyage of the ship made without a duly qualified medical practitioner be liable to a fine not exceeding one hundred pounds (*g*).

Certain ships to carry medical practitioners. 1854, s. 230.

(2.) Nothing in this section shall apply to an emigrant ship within the meaning of the Third Part of this Act (*h*).

210.—(1.) Every place in any British (*i*) ship (*b*) occupied by seamen (*b*) or apprentices (*c*), and appropriated to their use, shall have for each of those seamen or apprentices a space of not less than seventy-two cubic feet, and of not less than twelve superficial feet measured on the deck or floor of that place, and shall be subject to the regulations in the Sixth Schedule to this Act, and those regulations shall have effect as part of this section, and if any of the foregoing

Accommodation for seamen. 30 & 31 Vict. c. 124, s. 9. 31 & 32 Vict. c. 129, s. 3. 36 & 37 Vict. c. 85, s. 30.

(*b*) Defined, § 742.

(*c*) §§ 105-109.

(*d*) §§ 170, s. 1, 189.

(*e*) See note to § 58.

(*f*) §§ 164-166.

(*g*) How recovered, §§ 680-684; how applicable, §§ 699, 716.

(*h*) § 268.

(*i*) Note to § 1.

requirements of this section is not complied with in the case of any ship (*k*), the owner (*l*) of the ship shall for each offence be liable to a fine not exceeding twenty pounds (*m*).

(2.) Every place so occupied and appropriated shall be kept free from goods and stores of any kind not being the personal property of the crew in use during the voyage, and if any such place is not so kept free, the master (*k*) shall forfeit and pay to each seaman (*k*) or apprentice (*n*) lodged in that place the sum of one shilling (*o*) for each day during which, after complaint has been made to him by any two or more of the seamen (*k*) so lodged, it is not so kept free (*o*).

(8.) Such fees as the Board of Trade fix shall be paid in respect of an inspection for the purposes of this section (*p*), not exceeding the fees specified in the Sixth Schedule to this Act.

Facilities for making Complaint (q).

Facilities
for mak-
ing com-
plaint.
1854, s.
232.

211.—(1.) If a seaman (*k*) or apprentice (*n*) whilst on board ship states to the master (*k*) of the ship (*k*) his desire to make a complaint to a justice of the peace, British consular officer (*r*), or officer in command of one of Her Majesty's ships, against the master (*k*) or any of the crew, the master shall, so soon as the service of the ship will permit,—

(a.) if the ship is then at a place where there is such a justice or officer as aforesaid, after such statement; and

(b.) if the ship is not then at such a place, after her first arrival at such a place,

allow the complainant to go ashore or send him ashore in proper custody, or, in the case of complaint to a naval officer, to the ship of such officer, so that he may be enabled to make his complaint.

(*k*) Defined, § 742.

(*l*) Includes equitable owner; § 58, and note thereto.

(*m*) How recovered, §§ 680–684; how applicable, §§ 699, 716.

(*n*) §§ 105–109.

(*o*) No express means of recovering this appears to be provided; it could probably be included in a suit for

wages; §§ 164–166.

(*p*) By a surveyor of ships (§ 724), under Regulation 3 of the Sixth Schedule to this Act.

(*q*) For application, see Preliminary Note to this Part, and §§ 260–266.

(*r*) Int. Act, 1889, § 12, s. 20.

(2.) If the master (*t*) of a ship (*t*) fails (*u*) without reasonable cause to comply with this section, he shall for each offence be liable to a fine not exceeding ten pounds (*x*).

Protection of Seamen from Imposition (y).

212. Subject to the provisions of this Act (*z*) an assignment or sale of salvage (*a*) payable to a seaman (*t*) or apprentice (*b*) to the sea service made prior to the accruing thereof shall not bind the person making the same; and a power of attorney or authority for the receipt of any such salvage shall not be irrevocable (*c*).

Protection of Seamen from Imposition.

Assignment or sale of salvage invalid. 1854, s. 233.

213. A debt exceeding in amount five shillings incurred by any seaman (*t*) after he is engaged to serve shall not be recoverable until the service agreed for is concluded.

No debt exceeding 5s. recoverable till end of voyage.

214.—(1.) A local authority herein-after mentioned (*d*) whose district (*d*) includes a seaport may, with the approval of the Board of Trade, make byelaws relating to seamen's lodging-houses in their district (*d*), and those byelaws shall be binding upon all persons keeping houses in which seamen (*t*) are lodged and upon the owners thereof and persons employed therein.

1854, s. 234. Seamen's lodging-houses. 46 & 47 Vict. c. 41, s. 48.

(2.) The byelaws shall amongst other things provide for the licensing, inspection, and sanitary conditions of seamen's lodging-houses, for the publication of the fact of a house being licensed, for the due execution of the byelaws, for preventing the obstruction of persons engaged in securing that execution, for the preventing of persons not duly licensed holding themselves out as keeping or purporting to keep licensed houses, and for the exclusion from licensed houses of persons of improper character, and shall impose sufficient fines not exceeding fifty pounds for the breach of any byelaw (*e*).

(*t*) Defined, § 742.

(*u*) Includes refusal; § 742.

(*z*) How recovered, §§ 680-684; how applicable, §§ 699, 716.

(*y*) As to application of these sections, see Preliminary Note to this Part, and §§ 260-266.

(*z*) Cf. § 156, s. 2.

(*a*) Cf. § 546.

(*b*) §§ 105-109.

(*c*) This section does not apply to seamen specially engaged for salvage work; cf. § 156, s. 2, and *Pride of Canada* (1863), Br. & L. 208.

(*d*) Sub-s. 7.

(*e*) See § 680, s. 2, and sub-s. 6, *infra*.

(3.) The byelaws shall come into force from a date therein named, and shall be published in the London Gazette (*f*) and in one newspaper at the least circulating in the district, and designated by the Board of Trade.

(4.) If the local authority (*g*) do not within a time in each case named by the Board of Trade make, revoke, or alter any byelaws under this section, the Board of Trade may do so.

(5.) Whenever Her Majesty in Council (*h*) orders that in any district (*g*) or any part thereof none but persons duly licensed in pursuance of byelaws under this section shall keep seamen's lodging-houses or let lodgings to seamen (*i*) from a date therein named, a person (*k*) acting in contravention of that order shall for each offence be liable to a fine not exceeding one hundred pounds (*l*).

(6.) A local authority (*g*) may defray all expenses incurred in the execution of this section out of any funds at their disposal as sanitary authority, and fines recovered for a contravention of this section or of any byelaw under this section shall be paid to such authority and added to those funds.

(7.) In this section the expression "local authority" means in the administrative county of London the county council, and elsewhere in England the local authority under the Public Health Acts, and in Scotland the local authority under the Public Health (Scotland) Act, 1867 (*m*), and the Acts amending the same, and in Ireland the local authority under the Public Health (Ireland) Act, 1878 (*n*), and the expression "district" means the area under the authority of such local authority.

Penalty
for over-
charges by
lodging-
house
keepers.
1854, s.
235.

215. If a person (*k*) demands or receives from a seaman (*i*) or apprentice (*o*) to the sea service payment in respect of his board or lodging in the house of that person

(*f*) § 740.

(*g*) Sub-s. 7.

(*h*) § 738.

(*i*) Defined, § 742.

(*k*) Includes corporations. See
Int. Act, 1889, §§ 2, 19.

(*l*) How recovered, §§ 680-684;
how applicable, §§ 699, 716.

(*m*) 30 & 31 Vict. c. 101.

(*n*) 41 & 42 Vict. c. 52.

(*o*) §§ 105-109.

for a longer period than the seaman or apprentice has actually resided or boarded therein, that person shall for each offence be liable to a fine not exceeding ten pounds (*p*).

216.—(1.) If a person (*q*) receives or takes into his possession or under his control any money or effects (*r*) of a seaman (*r*) or apprentice (*s*) to the sea service, and does not return the same or pay the value thereof, when required by the seaman (*r*) or apprentice (*s*), subject to such deduction as may be justly due to him from the seaman (*r*) or apprentice (*s*) in respect of board or lodging or otherwise, or absconds therewith, he shall for each offence be liable to a fine not exceeding ten pounds (*p*).

Penalty for detaining seamen's effects. 1854, s. 236.

(2.) A court of summary jurisdiction (*t*) may, besides inflicting a fine, by summary order direct the amount of the money, or the value of the effects (*r*), subject to such deduction as aforesaid (*u*) (if any), or the effects themselves, to be forthwith paid or delivered to the seaman (*r*) or apprentice (*s*).

217. If within twenty-four hours after the arrival of a ship (*r*) at a port (*r*) in the United Kingdom, a person then being on board the ship solicits a seaman (*r*) to become a lodger at the house of a person letting lodgings for hire, or takes out of the ship any effects (*r*) of a seaman (*r*), except under the personal direction of the seaman, and with the permission of the master (*r*), he shall for each offence be liable to a fine not exceeding five pounds (*p*).

Penalty for solicitations by lodging-house keepers 1854, s. 238.

218. Where a ship (*r*) is about to arrive, is arriving, or has arrived at the end of her voyage (*x*), and any person, not being in Her Majesty's service or not being duly authorized by law for the purpose—

Penalty for being on board ship without permission before seamen leave 1854, s. 237.

(*p*) How recovered, §§ 680-684; how applicable, §§ 699, 716.

(*q*) Includes 'corporations. See Int. Act, 1889, §§ 2, 19.

(*r*) Defined, § 742.

(*s*) §§ 105-109.

(*t*) Int. Act, 1889, § 13, s. 11.

(*u*) Sub-s. 1.

(*x*) These words remedy the decision in *Attwood v. Case* (1875), 1 Q. B. D. 134, where boarding a vessel in dock before she arrived at her place of discharge was held not an offence. 43 & 44 Vict. c. 16, s. 5.

- (a.) goes on board the ship, without the permission of the master (*z*), before the seamen (*z*) lawfully leave the ship at the end of their engagement, or are discharged (whichever last happens); or,
- (b.) being on board the ship, remains there after being warned to leave by the master (*z*), or by a police officer, or by any officer of the Board of Trade or of the Customs,

that person shall for each offence be liable to a fine not exceeding twenty pounds (*a*), or, at the discretion of the court, to imprisonment for any term not exceeding six months; and the master (*z*) of the ship or any officer of the Board of Trade may take him into custody, and deliver him up forthwith to a constable to be taken before a court capable of taking cognizance of the offence.

Applica-
tion of
provisions
of previous
section to
foreign
ships.
43 & 44
Vict. c. 16,
s. 6.

219. Whenever it is made to appear to Her Majesty that the Government of a foreign country—

- (a.) has provided that unauthorized persons going on board British (*b*) ships (*z*) which are about to arrive or have arrived within its territorial jurisdiction shall be subject to provisions similar to those of the last-preceding section which are applicable to persons going on board British (*b*) ships (*z*) at the end of their voyages; and
- (b.) is desirous that the provisions of the said section (*c*) shall apply to unauthorized persons going on board ships (*z*) of that foreign country within British territorial jurisdiction,

Her Majesty in Council (*d*) may order that those provisions shall apply to the ships (*z*) of that foreign country, and have effect as if the ships of that country arriving, about to arrive, or having arrived at the end of their voyage, were British (*b*) ships (*z*).

(*z*) Defined, § 742.

(*a*) Procedure, §§ 680-684; fine how applicable, §§ 699, 716.

(*b*) See note to § 1.

(*c*) § 218.

(*d*) § 738.

Provisions as to Discipline (e).

*Provisions
as to
Discipline.*

220. If a master(*f*), seaman(*f*), or apprentice(*g*) belonging to a British(*h*) ship(*f*), by wilful breach of duty or by neglect of duty or by reason of drunkenness,—

Misconduct endangering life or ship.
1854, s. 239.

(*a.*) does any act tending to the immediate loss, destruction, or serious damage of the ship(*f*), or tending immediately to endanger the life or limb of a person belonging to or on board the ship; or

(*b.*) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the ship from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board the ship from immediate danger to life or limb,

he shall in respect of each offence be guilty of a misdemeanor(*i*).

221. If a seaman(*f*) lawfully engaged, or an apprentice(*g*) to the sea service, commits any of the following offences he shall be liable to be punished summarily(*k*) as follows:—

Desertion and absence without leave.
1854, s. 243.
43 & 44 Vict. c. 61, s. 10.

(*a.*) If he deserts from his ship(*f*) he shall be guilty of the offence of desertion(*l*) and be liable to forfeit(*m*) all or any part of the effects(*f*) he leaves on board, and of the wages(*f*) which he has then earned, and also, if the desertion takes place abroad, of the wages(*f*) he may earn in any other ship(*f*) in which he may be employed until his next return to the United Kingdom, and to satisfy any excess of wages paid by the master or owner of the ship to any substitute(*n*) engaged in

(*e*) For application of these sections, see Preliminary Note to this Part, and §§ 260–266. It was decided in *Leary v. Lloyd* (1860), 29 L. J. M. C. 194, that they only apply to British ships (see note to § 1), though the ground of the decision in that case, viz. that British ships must be registered, is removed as far as this Part is concerned by § 266, reproducing § 49 of the Act of 1883.

(*f*) Defined, § 742.

(*g*) §§ 105–109.

(*h*) See note to § 1.

(*i*) Procedure, §§ 680–684; fine how applicable, §§ 699, 716.

(*k*) Cf. § 681.

(*l*) Desertion must be with the intention not to return; temporary absence, intending to come back, is “absence without leave” under sub-*a.* (*b.*). See per Sir R. Phillimore, in *The Roebuck* (1874), 2 Asp. M. C. N. S., at p. 395; Dr. Lushington, in *The Two Sisters* (1843), 2 W. Rob., at p. 145. Going on shore to ask advice as to the meaning of the articles is not desertion. See *The Westmorland* (1841), 1 W. Rob. 216.

(*m*) § 132; forfeitures, how applied, see § 232, s. 3.

(*n*) Cf. § 115, s. 4.

his place at a higher rate of wages than the rate stipulated to be paid to him; and also, except in the United Kingdom, he shall be liable to imprisonment for any period not exceeding twelve weeks (o) with or without hard labour (p);

Absence
without
leave.

(b.) If he neglects, or refuses without reasonable cause, to join his ship (q), or to proceed to sea in his ship, or is absent without leave at any time within twenty-four hours of the ship's sailing from a port (q), either at the commencement or during the progress of a voyage, or is absent at any time without leave and without sufficient reason from his ship or from his duty, he shall, if the offence does not amount to desertion (r), or is not treated as such by the master (q), be guilty of the offence of absence without leave, and be liable to forfeit (s) out of his wages a sum not exceeding two days' pay, and in addition for every twenty-four hours of absence, either a sum not exceeding six days' pay, or any expenses properly incurred in hiring a substitute (t); and also, except in the United Kingdom, he shall be liable to imprisonment for any period not exceeding ten weeks with or without hard labour (u).

Convey-
ance of
deserter
on board
ship,
43 & 44
Vict. c. 16,
s. 10.

222.—(1.) If in the United Kingdom a seaman (q) or apprentice (x) is guilty of the offence of desertion (r) or of absence without leave (y), or otherwise absents himself from his ship without leave, the master (q), any mate, the ship's husband, or consignee of the ship, may, with or without the assistance of the local police officers or constables, convey him on board his ship, and those officers and constables are hereby directed to give assistance if required;

(o) See §§ 680-684. *G. N. S. S. Fishing Co. v. Edgehill* (1883), 11 Q. B. D. 225, deciding that the remedy of summary punishment here given bars any other remedy, is overruled by § 226 of this Act, incorporating 46 & 47 Vict. c. 41, § 54.

(p) For the defence that the ship was unseaworthy, see § 463.

(q) Defined, § 742.

(r) § 221, s. (a.).

(s) § 132. See, for application of forfeiture, § 232, s. 3.

(t) § 115, s. 4.

(u) §§ 680-684.

(x) §§ 105-109.

(y) § 221, s. (b.).

(z) Includes equitable owner; § 58, and note thereto.

(2.) Provided that if the seaman (*a*) or apprentice (*b*) so requires he shall first be taken before some court (*c*) capable of taking cognizance of the matter to be dealt with according to law.

(3.) If it appears to the court (*a*) before whom the case is brought that the seaman (*a*) or apprentice (*b*) has been conveyed on board or taken before the court on improper or insufficient grounds, that court may inflict on the master (*a*), mate, owner (*d*), ship's husband, or consignee, as the case may be, a fine not exceeding twenty pounds (*e*); but the infliction of that fine shall be a bar to any action for false imprisonment in respect of the arrest.

223.—(1.) If out of the United Kingdom, either at the commencement or during the progress of any voyage, a seaman (*a*) or apprentice (*b*) is guilty of the offence of desertion (*f*) or of absence without leave (*g*), or otherwise absents himself from his ship without leave, the master (*a*), any mate, the owner (*d*), ship's husband, or consignee, may in any place in Her Majesty's dominions out of the United Kingdom, with or without the assistance of the local police officers or constables (and those officers and constables are hereby directed to give assistance if required), and also at any place out of Her Majesty's dominions, if and so far as the laws in force at that place will permit, arrest him without first procuring a warrant.

Provisions
as to arrest
and im-
prison-
ment
applying
out of the
United
Kingdom.
1854, ss.
246, 248.
43 & 44
Vict. c. 16,
s. 12.

(2.) A person so arresting a seaman (*a*) or apprentice (*b*) may in any case, and shall in case the seaman or apprentice so requires and it is practicable, convey him before some court capable of taking cognizance of the matter, to be dealt with according to law, and for that purpose may detain him in custody for a period not exceeding twenty-four hours, or such shorter time as may be necessary; but if the seaman or apprentice does not require to be so taken before a court, or if there is no such

(*a*) Defined, § 742.
(*b*) §§ 105–109.
(*c*) *i.e.* of summary jurisdiction.
Of § 221 (*a*).
(*d*) Includes equitable owner; § 58,

and notes thereto.
(*e*) How recovered, §§ 680–684;
how applicable, §§ 699, 716.
(*f*) § 221, s. (*a*).
(*g*) § 221, s. (*b*).

court at or near the place, the person arresting him may at once convey him on board his ship.

(3.) If it appears to the court before whom the case is brought that an arrest under this section has been made on improper or on insufficient grounds, the master (*h*), mate, owner (*i*), ship's husband, or consignee who made the arrest, or caused it to be made, shall be liable to a fine not exceeding twenty pounds (*k*); but the infliction of that fine shall be a bar to any action for false imprisonment in respect of the arrest.

† (4.) If out of the United Kingdom, a seaman (*h*) or apprentice (*l*) is imprisoned for having been guilty of the offence of desertion (*m*) or of absence without leave (*n*), or for having committed any other breach of discipline (*o*), and during his imprisonment and before his engagement is at an end, his services are required on board his ship (*h*), a justice of the peace may, on the application of the master (*h*) or of the owner (*i*) or his agent, notwithstanding that the period of imprisonment is not at an end, cause the seaman (*h*) or apprentice (*l*) to be conveyed on board his ship (*h*) for the purpose of proceeding on the voyage, or to be delivered to the master (*h*) or any mate of the ship, or to the owner (*i*) or his agent, to be by them so conveyed.

Power of
Court to
order
offender to
be taken
on board
ship.
1854, s.
247.
43 & 44
Vict. c. 16,
s. 10.

224.—(1.) Where a seaman (*h*) or apprentice (*l*) is brought before a court (*h*) on the ground of the offence of desertion (*m*), or of absence without leave (*n*), or of otherwise absenting himself without leave, the court, if the master (*h*) or the owner (*i*) or his agent so require, may (and if out of the United Kingdom in lieu of committing him to prison) cause him to be conveyed (*p*) on board his ship (*h*) for the purpose of proceeding on the voyage or deliver him to the master (*h*), or any mate of the ship, or the owner (*q*), or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by

(*h*) Defined, § 742.

(*i*) Includes equitable owner; § 58, and note thereto.

(*k*) How recovered, §§ 680-684; how applicable, §§ 699, 716.

(*l*) §§ 105-109.

(*m*) § 221, s. (*a*).

(*n*) § 221, s. (*b*).

(*o*) § 225.

(*p*) Except in cases under sub-s. 2.

(*q*) See note to § 58.

or on behalf of the master (*r*) or owner (*s*) by reason of the offence to be paid by the offender, and, if necessary, to be deducted from any wages which he has then earned (*t*), or by virtue of his then existing engagement may afterwards earn.

(2.) If in the United Kingdom a seaman (*r*) or apprentice (*u*) to the sea service intends to absent himself from his ship (*r*) or his duty, he may give notice of his intention, either to the owner (*s*) or to the master (*r*) of the ship (*r*), not less than forty-eight hours before the time at which he ought to be on board his ship; and in the event of that notice being given, the court (*r*) shall not exercise any of the powers conferred by this section for causing the offender to be conveyed on board his ship.

225.—(1.) If a seaman (*r*) lawfully engaged or an apprentice (*u*) to the sea service commits any of the following offences, in this Act referred to as offences against discipline, he shall be liable to be punished summarily (*x*) as follows; that is to say (*y*),

General offences against discipline. 1854, s. 248.

- (a.) If he quits the ship (*r*) without leave after her arrival at her port (*r*) of delivery, and before she is placed in security (*z*), he shall be liable to forfeit (*y*) out of his wages (*r*) a sum not exceeding one month's pay (*z*):
- (b.) If he is guilty of wilful disobedience to any lawful command, he shall be liable to imprisonment (*a*) for a period not exceeding four weeks (*b*), and also, at the discretion of the court (*r*), to forfeit (*y*) out of his wages (*r*) a sum not exceeding two days' pay:
- (c.) If he is guilty of continued wilful disobedience to lawful commands or continued wilful neglect of duty, he shall be liable to imprisonment (*a*) for a period not

(*r*) Defined § 742.

(*s*) See note to § 58.

(*t*) § 132.

(*u*) §§ 105–109.

(*x*) Cf. §§ 680–684.

(*y*) As to forfeitures under this section and wages, see § 132, and *The Highland Chief* (1892), P. 76, per Jeune, J. Application of forfeitures,

see § 232, s. 3; procedure, see § 233.

(*z*) Cf. *The Baltic Merchant* (1809), Edwards, 86, deciding that the ship must be safely moored at her place of discharge.

(*a*) With or without hard labour; s. 2.

(*b*) As to procedure, see §§ 680–684.

exceeding twelve weeks (c), and also, at the discretion of the court (d), to forfeit (e) for every twenty-four hours' continuance of disobedience or neglect, either a sum not exceeding six days' pay, or any expenses properly incurred in hiring a substitute (f):

(d.) If he assaults the master (d) or any mate (g) or certificated engineer (g) of the ship, he shall be liable to imprisonment (h) for a period not exceeding twelve weeks (c):

(e.) If he combines with any of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment (h) for a period not exceeding twelve weeks (c):

(f.) If he wilfully damages his ship (d), or embezzles or wilfully damages any of her stores or cargo, he shall be liable to forfeit out of his wages (d) a sum equal to the loss thereby sustained, and also, at the discretion of the court, to imprisonment (h) for a period not exceeding twelve weeks (c):

(g.) If he is convicted of any act of smuggling, whereby loss or damage is occasioned to the master (d) or owner (i) of the ship (d), he shall be liable to pay to that master (d) or owner (i) a sum sufficient to reimburse the loss or damage; and the whole or a proportionate part of his wages (d) may be retained in satisfaction or on account of that liability, without prejudice to any further remedy.

(2.) Any imprisonment under this section may be with or without hard labour.

Summary
remedies
not to
affect
other
remedies.
46 & 47
Vict. c. 41,
s. 54.

226. Nothing in the last-preceding section or in the sections relating to the offences of desertion (k) or absence without leave (l) shall take away or limit any remedy by action or by summary procedure before justices (m) which

(c) As to procedure, see §§ 680-684.

(d) Defined, § 742.

(e) See note (g), p. 173.

(f) Cf. § 115, s. 4.

(g) § 92.

(h) With or without hard labour; s. 2.

(i) See note to § 58.

(k) § 221, s. (a.).

(l) § 221, s. (b.).

(m) Cf. §§ 222, 223.

an owner (*n*) or master (*o*) would but for those provisions have for any breach of contract in respect of the matters constituting an offence under those sections (*p*), but an owner (*n*) or master (*o*) shall not be compensated more than once in respect of the same damage.

227.—(1.) If a seaman (*o*) on or before being engaged wilfully and fraudulently makes a false statement of the name of his last ship (*o*) or alleged last ship, or wilfully and fraudulently makes a false statement of his own name (*o*), he shall for each offence be liable to a fine not exceeding five pounds (*q*).

Penalty for false statement as to last ship or name. 1854, s. 255.

(2.) The fine may be deducted (*r*) from any wages the seaman may earn by virtue of his engagement aforesaid, and shall, subject to reimbursement of the loss and expenses (if any) occasioned by any desertion previous to the engagement (*s*), be paid and applied in the same manner as other fines under this Act (*t*).

228. If any offence, within the meaning of this Act, of desertion (*u*) or absence without leave (*x*) or against discipline (*y*) is committed, or if any act of misconduct is committed for which the offender's agreement (*z*) imposes a fine and it is intended to enforce the fine,

Entry of offences in official log. 1854, ss. 244, 256.

(*a.*) an entry of the offence or act shall be made in the official log-book (*a*), and signed by the master (*o*) and also by the mate or one of the crew; and

(*b.*) the offender, if still in the ship (*o*), shall before the next subsequent arrival of the ship at any port (*o*), or if she is at the time in port (*o*) before her departure therefrom, either be furnished with a copy of the entry or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit; and

(*u*) See note to § 58.

(*o*) Defined, § 742.

(*p*) This overrules *G. N. S. S. Fishing Co. v. Edgehill* (1883) 11 Q. B. D. 225, deciding that the remedy of summary procedure in § 221 excluded any other.

(*q*) How recovered, §§ 680–684; how applicable, §§ 699, 716.

(*r*) § 132.

(*s*) Cf. § 221, s. (*a.*).

(*t*) Cf. §§ 699, 716.

(*u*) § 221, s. (*a.*).

(*x*) § 221, s. (*b.*).

(*y*) § 225.

(*z*) § 113.

(*a*) §§ 239, 240.

- (c.) a statement of a copy of the entry having been so furnished, or of the entry having been so read over, and, in either case, the reply (if any) made by the offender, shall likewise be entered and signed in manner aforesaid; and
- (d.) in any subsequent legal proceeding the entries by this section required shall, if practicable, be produced or proved, and in default of that production or proof the court (b) hearing the case may, in their discretion, refuse to receive evidence of the offence or act of misconduct.

Entries
and certifi-
cates of
desertion
abroad.
1854, s.
249

229.—(1.) In every case of desertion (c) from a ship (b) in any port (b) abroad the master (b) shall produce the entry of the desertion in the official log-book (d) to the person by this Act authorized to grant certificates for leaving seamen behind abroad (e); and that person shall thereupon make and certify a copy of the entry.

(2.) The copy shall be forthwith transmitted to the Registrar-General of Shipping and Seamen in England (f) by the person by whom the copy is made and certified, if he is a public functionary, and if he is not, by the master (b), and shall be admissible in evidence in manner provided by this Act (g).

Register
of de-
serters.
52 & 53
Vict. c.
46, s. 3.

230. A superintendent (h) shall keep at his office a list of seamen (b) who, to the best of his knowledge and belief, have deserted (c) or failed to join their ships after signing an agreement (i) to proceed to sea in them, and shall on request show the list to a master (b) of a ship (b), and shall not be liable (k) in respect of any entry made in good faith in the list.

Facilities
for prov-
ing
desertion

231.—(1.) Whenever a question arises whether the wages (b) of any seaman (b) or apprentice (l) are forfeited for desertion (c) from a ship (b), it shall be sufficient for

- (b) Defined § 742.
(c) § 221, s. (a.).
(d) § 228, s. (a.).
(e) § 188, s. 1.
(f) § 251.

- (g) § 695.
(h) §§ 247, 742.
(i) § 113.
(k) i.e. for libel.
(l) §§ 105-109.

the person insisting on the forfeiture (*m*) to show that the seaman (*n*) or apprentice (*o*) was duly engaged in or belonged to the ship, and either that he left the ship before the completion of the voyage or engagement, or, if the voyage was to terminate in the United Kingdom and the ship has not returned, that he is absent from her, and that an entry of his desertion has been duly made in the official log-book (*p*).

(2.) The desertion shall thereupon, so far as relates to any forfeiture of wages under this part of this Act (*m*), be deemed to be proved, unless the seaman (*n*) or apprentice (*o*) can produce a proper certificate of discharge (*q*), or can otherwise show to the satisfaction of the court that he had sufficient reasons for leaving his ship (*r*).

232.—(1.) Where any wages (*n*) or effects (*n*) are under this Act forfeited for desertion (*m*) from a ship (*n*), those effects (*n*) may be converted into money, and those wages and effects, or the money arising from the conversion of the effects, shall be applied towards reimbursing the expenses caused by the desertion (*m*) to the master (*n*) or owner (*s*) of the ship, and subject to that reimbursement shall be paid into the Exchequer, and carried to the Consolidated Fund.

(2.) For the purpose of such reimbursement, the master (*n*) or the owner (*s*), or his agent may, if the wages (*n*) are earned subsequently to the desertion, recover them in the same manner as the deserter could have recovered them if not forfeited (*t*); and the court (*n*) in any legal proceeding relating to such wages may order them to be paid accordingly (*u*).

(3.) Where wages (*n*) are forfeited under the foregoing provisions of this Act in any case other than for desertion (*x*), the forfeiture shall, in the absence of any specific provision

(*m*) § 221, s. (a.).

(*n*) Defined, § 742.

(*o*) §§ 105–109.

(*p*) §§ 239, 240; see § 228, s. 1.

(*q*) §§ 126, 186.

(*r*) This, in effect, throws the burden of proving just cause for absence on the seaman; see notes as to desertion, to § 221. Thus a seaman

ordered home by the court to give evidence under § 689, does not lose his wages. *Cross v. Hyne* (1868), 3 Asp. M. C. O. S. 80.

(*s*) See note to § 58.

(*t*) §§ 164–166.

(*u*) i.e. to such master or owner.

(*x*) e.g. §§ 221, s. (b.), 225; and see note to § 132.

to the contrary, be for the benefit of the master (*y*) or owner (*z*) by whom the wages are payable.

Decision of questions of forfeiture and deductions in suits for wages. 1854, s. 254.

233. Any question concerning the forfeiture (*a*) of or deductions (*b*) from the wages (*y*) of a seaman (*y*) or apprentice (*c*) may be determined in any proceeding lawfully instituted with respect to those wages (*d*), notwithstanding that the offence in respect of which the question arises, though by this Act made punishable by imprisonment as well as forfeiture (*e*), has not been made the subject of any criminal proceeding (*f*).

Ascertainment of amount of forfeiture out of wages. 1854, s. 252.

234. If a seaman (*y*) contracts for wages (*y*) by the voyage or by the run or by the share, and not by the month (*g*) or other stated period of time, the amount of forfeiture to be incurred under this Act (*h*) shall be an amount bearing the same proportion to the whole wages (*y*) or share, as a month (*g*) or any other period herein-before mentioned in fixing the amount of such forfeiture (as the case may be) bears to the whole time spent in the voyage or run; and if the whole time spent in the voyage or run does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages (*y*) or share.

Deduction from wages, and payments to superintendents, &c., of fines. 1854, s. 256.

235.—(1.) Every fine imposed on a seaman (*y*) for any act of misconduct for which his agreement (*i*) imposes a fine shall be deducted (*h*) and paid as follows; that is to say,

(*a.*) if the offender is discharged in the United Kingdom, and the offence, and the entry in the log-book required by this Act in respect thereof (*k*), are proved to the satisfaction, in the case of a foreign-going ship (*y*), of the superintendent (*l*) before whom the offender is discharged, and in the case of a home-trade ship (*y*) of the superintendent (*l*) at or nearest the port (*y*) at

(*y*) Defined, § 742.

(*z*) See note to § 58.

(*a*) *e.g.* §§ 221, s. (*b.*), 225; and see note to § 132.

(*b*) See § 132.

(*c*) §§ 105-109.

(*d*) §§ 164-166.

(*e*) Cf. §§ 221, 225.

(*f*) See powers of naval courts as to forfeitures, § 483, ss. (*d.*), (*e.*).

(*g*) Int. Act, 1889, § 3.

(*h*) See note to § 132.

(*i*) See § 113.

(*k*) § 228, s. (*a.*).

(*l*) §§ 247, 742.

which the crew are discharged, the master (*m*) or owner (*n*) shall deduct the fine from the wages of the offender, and pay it to the superintendent (*o*);

(*b.*) if the offender enters Her Majesty's naval service (*p*) or is discharged abroad before the final discharge of the crew in the United Kingdom, and the offence and the entry as aforesaid (*q*) are proved to the satisfaction of the officer in command of the ship he so enters, or of the consular officer (*r*) or other person by whose sanction he is discharged (*s*), as the case may be, the fine shall be deducted as aforesaid (*t*) and an entry made in the official log-book (*u*) of the ship and signed by the officer or other person to whose satisfaction the offence is proved; and

(*c.*) on the return of the ship (*x*) to the United Kingdom the master (*m*) or owner (*n*) shall pay the fine to the superintendent (*o*) before whom the crew is (*y*) discharged, or in the case of a home-trade ship (*m*) to the superintendent (*o*) at or nearest the port (*m*) at which the crew are (*y*) discharged.

(2.) If a master (*m*) or owner (*n*) fails (*z*) without reasonable cause so to pay the fine (*a*), he shall for each offence be liable to a fine not exceeding six times the amount of the fine not so paid (*b*).

(3.) An act of misconduct for which any fine has been inflicted and paid by, or deducted (*c*) from the wages (*m*) of, the seaman (*m*) shall not be otherwise punished under this Act.

236.—(1.) If a person by any means whatever persuades or attempts to persuade a seaman (*m*) or apprentice (*d*) to neglect or refuse to join or proceed to sea in or to desert (*e*)

Penalty for enticing to desert and harbour-
ing deserters.
1854, s.
257.

(*m*) Defined, § 742.

(*n*) See note to § 58.

(*o*) §§ 247, 742.

(*p*) § 195.

(*q*) § 228, s. (*n*).

(*r*) See Int. Act, 1889, § 12, s. 20.

(*s*) § 188.

(*t*) Sub-s. 1 (*n*).

(*u*) §§ 239, 240.

(*x*) See § 113.

(*y*) To make "crew" singular and plural in the same sentence is legislative grammar.

(*z*) Includes refusal; § 742.

(*a*) Sub-s. (*c*).

(*b*) How recoverable, §§ 680-684; how applicable, §§ 699, 716.

(*c*) See note to § 132.

(*d*) §§ 105-109.

(*e*) § 221, s. (*n*).

from his ship (*f*), or otherwise to absent himself from his duty (*g*), he shall for each offence in respect of each seaman (*f*) or apprentice (*h*) be liable to a fine not exceeding ten pounds (*i*).

(2.) If a person wilfully harbours or secretes a seaman (*f*) or apprentice (*h*) who has wilfully neglected or refused to join, or has deserted (*k*), from his ship (*f*), knowing or having reason to believe the seaman or apprentice to have so done, he shall for every seaman (*f*) or apprentice (*h*) so harboured or secreted be liable to a fine not exceeding twenty pounds (*i*).

Penalty
on stowa-
ways, and
discipline
of stowa-
aways and
seamen
carried
under
compul-
sion.
1854, ss.
245, 258.

237.—(1.) If a person secretes himself and goes to sea in a ship (*f*) without the consent of either the owner (*j*), consignee, or master (*f*), or of a mate, or of the person in charge of the ship, or of any person entitled to give that consent, he shall be liable to a fine not exceeding twenty pounds, or, in the discretion of the court, to imprisonment, with or without hard labour, for a period not exceeding four weeks (*i*).

(2.) Every seafaring person whom the master (*f*) of a ship (*f*) is, under the authority of this or any other Act, compelled to take on board and convey (*l*), and every person who goes to sea in a ship without such consent as afore-said (*m*), shall, so long as he remains in the ship, be deemed to belong to the ship, and be subject to the same laws and regulations for preserving discipline, and to the same fines and punishments for offences constituting or tending to a breach of discipline (*n*), as if he were a member of, and had signed the agreement with, the crew (*o*).

Deserters
from
foreign
ships.
15 & 16
Vict. c. 26.

238.—(1.) Where it appears to Her Majesty that due facilities are or will be given by the government of any

(*f*) Defined, § 742.
(*g*) § 221, s. (*b*).
(*h*) §§ 105-109.
(*i*) How recoverable, §§ 680-684;
how applicable, §§ 699, 716.
(*j*) Note to § 58.
(*k*) § 221, s. (*a*).
(*l*) e.g. distressed British seamen
under § 192; offenders and witnesses
under § 689.

(*m*) Sub-s. 1.
(*n*) § 225.
(*o*) The seaman need not have
signed the agreement with the crew
(§ 113), as under the definition in
§ 742, those may be seamen who
never go to sea; cf. *Austin v. Olsen*
(1868), L. R. 3 Q. B. 208; and cf.
Thomson v. Hart (1890), 18 Sc. Sess.
C. 4th ser. Just. 3.

foreign country for recovering and apprehending seamen (*p*) whodesert(*q*) from British merchant ships(*r*) in that country, Her Majesty may, by Order in Council(*s*), stating that such facilities are or will be given, declare that this section shall apply in the case of such foreign country, subject to any limitations, conditions, and qualifications contained in the Order.

(2.) Where this section applies in the case of any foreign country, and a seaman(*p*) or apprentice(*t*), not being a slave, deserts(*u*) when within any of Her Majesty's dominions from a merchant ship(*p*) belonging to a subject of that country, any court, justice, or officer that would have had cognisance of the matter if the seaman or apprentice had deserted from a British ship(*u*) shall, on the application of a consular officer(*p*) of the foreign country, aid in apprehending the deserter, and for that purpose may, on information given on oath, issue a warrant for his apprehension, and, on proof of the desertion, order him to be conveyed on board his ship(*x*) or delivered to the master(*p*) or mate of his ship, or to the owner(*y*) of the ship or his agent, to be so conveyed; and any such warrant or order may be executed accordingly.

(3.) If any person harbours or secretes any deserter(*u*) liable to be apprehended under this section, knowing or having reason to believe that he has deserted(*u*), that person shall for each offence be liable to a fine not exceeding ten pounds(*z*).

Official Logs.

239—(1.) An official log shall be kept in every ship(*p*) (except ships employed exclusively in trading between ports(*p*) on the coasts of Scotland) in the appropriate form for that ship approved by the Board of Trade.

(2.) The Board of Trade shall approve forms of official log-books, which may be different for different classes of

*Official
Logs.*

Official
log to be
kept and
to be
evidence.
1854, ss.
280, 281,
283, 285.
1862, s. 13.
46 & 47
Vict. c. 41,
s. 55.

(*p*) Defined, § 742.

(*q*) § 221, s. (u.).

(*r*) See note to § 1.

(*s*) § 738; cf. § 734.

(*t*) §§ 105-109.

(*u*) § 221, s. (u.).

(*x*) Cf. § 224, s. 1.

(*y*) See note to § 58.

(*z*) How recovered, §§ 680-684;
how applicable, §§ 699, 716.

ships, so that each form shall contain proper spaces for the entries required by this Act (*a*).

(3.) This official log may, at the discretion of the master (*b*) or owner (*c*), be kept distinct from, or united with, the ordinary ship's log, so that in all cases the spaces in the official log book be duly filled up (*d*).

(4.) An entry required by this Act (*a*) in an official log-book shall be made as soon as possible after the occurrence to which it relates, and if not made on the same day as that occurrence shall be made and dated so as to show the date of the occurrence and of the entry respecting it; and if made in respect of an occurrence happening before the arrival of the ship at her final port (*b*) of discharge shall not be made more than twenty-four hours after that arrival.

(5.) Every entry in the official log book shall be signed by the master (*b*), and by the mate, or some other of the crew, and also

(*a*.) if it is an entry of illness, injury, or death (*e*), shall be signed by the surgeon, or medical practitioner on board (if any (*f*)); and

(*b*.) if it is an entry of wages (*b*) due to, or of the sale of the effects (*b*) of, a seaman (*b*) or apprentice (*g*) who dies, shall be signed by the mate and by some member of the crew besides the master (*h*); and

(*c*.) if it is an entry of wages (*b*) due to a seaman (*b*) who enters Her Majesty's naval service, shall be signed by the seaman, or by the officer authorized to receive the seaman into that service (*i*).

(6.) Every entry made in an official log-book in manner provided by this Act (*k*) shall be admissible in evidence (*l*).

Entries
required
in official
log-book.
1854, s.

282.

See 37 & 38
Vict. c. 38,
s. 37.

240. The master (*b*) of a ship (*b*) for which an official log is required (*k*) shall enter or cause to be entered in the official log-book the following matters; (that is to say,)

(*a*) Cf. § 240, and notes.

(*b*) Defined, § 742.

(*c*) See note to § 58.

(*d*) It is usually kept distinct.

(*e*) § 240, s. 5.

(*f*) §§ 209, 303.

(*g*) §§ 105-109.

(*h*) Cf. § 169, where this provision is repeated; also § 240, ss. 9, 10.

(*i*) § 240, s. 8; and §§ 195, 196, 235.

(*k*) § 239, ss. 1, 4, 5.

(*l*) See § 695.

- (1.) Every conviction by a legal tribunal of a member of his crew (*m*), and the punishment inflicted :
- (2.) Every offence committed by a member of his crew (*m*) for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the copy or reading over of that entry, and concerning the reply (if any) made to the charge, as is by this Act required (*n*) :
- (3.) Every offence for which punishment is inflicted on board, and the punishment inflicted :
- (4.) A statement of the conduct, character, and qualifications of each of his crew (*m*), or a statement that he declines to give an opinion on those particulars (*o*) :
- (5.) Every case of illness (*p*) or injury happening to a member of the crew (*m*), with the nature thereof, and the medical treatment adopted (if any) (*q*) :
- (6.) Every marriage taking place on board with the names and ages of the parties :
- (7.) The name of every seaman (*r*) or apprentice (*s*) who ceases to be a member of the crew, otherwise than by death, with the place, time, manner, and cause thereof :
- (8.) The wages (*r*) due to any seaman (*r*) who enters Her Majesty's naval service (*t*) during the voyage (*q*) :
- (9.) The wages due (*r*) to any seaman (*r*) or apprentice (*s*) who dies during the voyage (*u*), and the gross amount of all deductions (*x*) to be made therefrom (*q*) :
- (10.) The sale of the effects (*r*) of any seaman (*r*) or apprentice (*s*) who dies during the voyage (*u*), including a statement of each article sold, and the sum received for it (*q*) :
- (11.) Every collision with any other ship (*r*), and the circumstances under which the same occurred (*y*) : and

(*m*) Cf. §§ 113, 114, and notes.

(*n*) § 228.

(*o*) Cf. § 129.

(*p*) Includes influenza; the captain of a P. and O. liner was fined at Bow Street for not entering cases of influenza in the official log.

(*q*) As to countersigning this entry,

see § 239, s. 5.

(*r*) Defined, § 742.

(*s*) §§ 105-109.

(*t*) §§ 195, 196, 235.

(*u*) § 169.

(*x*) § 132, and notes.

(*y*) Cf. § 423, which extends this to any collision, e.g. with a large

(12.) Any other matter directed by this Act to be entered (a).

Offences
in respect
of official
logs.

241.—(1.) If an official log-book is not kept in the manner required by this Act (b), or if an entry directed by this Act to be made therein is not made at the time and in the manner directed by this Act (b), the master shall for each offence be liable to the specific fine in this Act mentioned in respect thereof, or where there is no such specific fine, to a fine not exceeding five pounds (c).

(2.) If any person makes, or procures to be made, or assists in making, any entry in an official log-book in respect of any occurrence happening previously to the arrival of the ship at her final port (d) of discharge more than twenty-four hours after that arrival, he shall for each offence be liable to a fine not exceeding thirty pounds (c).

(3.) If any person wilfully destroys or mutilates or renders illegible any entry in an official log-book, or wilfully makes or procures to be made or assists in making a false or fraudulent entry in or omission from an official log-book, he shall in respect of each offence be guilty of a misdemeanor (c).

propelled by oars, and, *semble*, with a pier, dock wall, or breakwater. Cf. *The Zeta* (1893), A. C. 468.

(a) Other matters directed to be entered are—

(13.) The result of the examination of provisions or water under § 198 to be entered by the inspecting officer (§ 198, s. 3).

(14.) The refusal of a seaman or apprentice to take anti-scorbutics, as required by § 200. Entry to be signed by the master, and mate or some other of the crew, and medical practitioner, if any (§ 200, s. 3).

(15.) Any collision; see note (y), p. 183.

(16.) A list of the documents relating to the navigation of the ship handed over by a master who ceases to be master during the voyage, to his successor, to be entered by the successor (§ 258).

(17.) The draught of water and clear side of the ship on leaving

dock for a voyage, to be entered by the master (§ 436, s. 3).

(18.) A copy of the statement in the form of entry of the distance between the load-line and the deck-lines, to be entered by the master (§ 440, s. 4).

(19.) Any matters relating to the load-line required by the regulations of the Board of Trade to be entered (§ 443, s. 2).

(20.) All orders made by a naval court, to be signed by the president of the court (§ 483, s. 2).

Particulars as to births and deaths occurring on board must be recorded by the master, but not necessarily in the official log (§ 254, s. 1). As to deaths, the superintendent, on arrival in the United Kingdom, of the ship, must make an entry in the official log. § 690.

(b) § 239.

(c) Procedure, §§ 680-684; fine how applicable, §§ 699, 716.

(d) Defined, § 742.

242.—(1.) The master (*e*) of every foreign-going ship (*e*) shall, within forty-eight hours after the ship's arrival at her final port (*e*) of destination in the United Kingdom or upon the discharge of the crew, whichever first happens, deliver the official log-book (*f*) of the voyage to the superintendent (*g*) before whom the crew is discharged (*h*).

Delivery of official logs to superintendent of mercantile marine office.
1854, s. 286.
46 & 47
Vict. c. 41
s. 55.

(2.) The master (*e*) or owner of every home-trade ship (*e*) for which an official log is required to be kept (*f*) shall, within twenty-one days of the thirtieth day of June and the thirty-first day of December in every year, transmit or deliver the official log-book (*f*) for the preceding half-year to some superintendent (*g*) in the United Kingdom (*i*).

(3.) If the master (*e*) or owner (*k*) of a ship (*e*) fails (*l*) without reasonable cause to comply with this section, he shall be subject to the same consequences and liabilities to which he is subject for the non-delivery of the list of the crew required to be delivered under this Part of this Act (*m*).

243.—(1.) Where by reason of transfer of ownership (*n*) or change of employment (*o*) of a ship (*e*), the official log (*f*) ceases to be required in respect of the ship or to be required at the same date (*o*), the master (*e*) or owner (*k*) of the ship shall, if the ship is then in the United Kingdom, within one month, and if she is elsewhere, within six months, after the cessation, deliver or transmit to the superintendent (*g*) at the port (*e*) to which the ship belonged (*p*) the official log-book (*f*) (if any) duly made out to the time of the cessation (*i*).

Official logs to be sent home in case of transfer of ship, and in case of loss.
1854, s. 287.

(2.) If a ship (*e*) is lost or abandoned, the master (*e*) or owner (*k*) thereof shall, if practicable, and as soon as possible, deliver or transmit to the superintendent (*g*) at the

(*e*) Defined, § 742.

(*f*) § 239.

(*g*) §§ 247, 742.

(*h*) § 127.

(*i*) The superintendents shall transmit the logs to the (§ 251) Registrar-General. See § 256.

(*k*) Note to § 58.

(*l*) Includes refusal; § 742.

(*m*) Fine of £5. See § 253, s. 3.

(*n*) As where the ship ceases to be British; cf. § 1.

(*o*) As where a foreign-going ship changes to home trade; cf. §§ 242, 742.

(*p*) § 13.

port (*q*) to which the ship belonged (*r*) the official log-book (*s*) (if any) duly made out to the time of the loss or abandonment (*t*).

(3.) If the master (*q*) or owner (*u*) of a ship (*q*) fails (*x*) without reasonable cause to comply with this section, he shall for each offence be liable to a fine not exceeding ten pounds (*y*).

*Local
Marine
Boards.*

Continu-
ance and
constitu-
tion of
local
marine
board.
1854, ss.
110, 118,
119.
1862, s.
14.

Local Marine Boards.

244.—(1.) There shall be local marine boards for carrying into effect this Act under the superintendence of the Board of Trade at those ports (*q*) of the United Kingdom at which local marine boards are now established and at such other places as the Board of Trade appoint for the purpose.

(2.) Every local marine board shall be constituted in manner specified in the Seventh Schedule to this Act, and the regulations in that schedule shall apply to the board and elections thereof.

(3.) A local marine board may regulate the mode in which their meetings are to be held and their business is to be conducted, including the fixing of a quorum, not being less than three.

(4.) A local marine board shall keep minutes of their proceedings in the manner (if any) prescribed by the Board of Trade.

(5.) Any act or proceedings of a local marine board shall not be vitiated or prejudiced by reason of any irregularity in the election of any of the members, or of any error in the list of voters entitled to vote at the election, or of any irregularity in making or revising the list, or by reason of any person not duly qualified acting on the board, or of any vacancy in the board.

Control of
Board of

245.—(1.) Every local marine board (*z*) shall make and

(*q*) Defined, § 742.

(*r*) § 13.

(*s*) § 239.

(*t*) The superintendents shall transmit the logs to the (§ 251) Registrar-General. See § 256.

(*u*) Note to § 58.

(*x*) Includes refusal; § 742.

(*y*) Procedure, §§ 680-684; fine, how applicable. §§ 699, 716.

(*z*) § 244.

send to the Board of Trade such reports and returns as the Board of Trade require; and all minutes, books, and documents of, or used or kept by, any local marine board, or by any superintendent (a), or by any examiner (b) or other officer or servant under the control of any local marine board, shall be open to the inspection of the Board of Trade and their officers.

Trade over local marine boards. 1854, ss. 119-121.

(2.) If any local marine board, by reason of any election not being held or of the simultaneous resignation or continued non-attendance of all or the greater part of the members, or from any other cause, fail to meet or to discharge their duties, the Board of Trade may, in their discretion, either take into their own hands the performance of the duties of the local marine board until the next triennial appointment and election thereof, or direct that a new appointment and election of the local marine board shall take place immediately.

(3.) If on complaint made to the Board of Trade it appears to them that at any port (c), any appointments or arrangements made by the local marine board under this Act are not such as to meet the wants of the port, or are in any respect unsatisfactory or improper, the Board of Trade may annul, alter, or rectify the same, as they think expedient, having regard to the intention of this Act and to the wants of the port.

Mercantile Marine Offices.

246.—(1.) A mercantile marine office, with the requisite buildings, property, superintendents (a), deputies, clerks, and servants shall be maintained at every port (d) of the United Kingdom where there is a local marine board (d), and may be established and maintained at such other ports (c) as the Board of Trade determine.

Mercantile Marine Offices.

Establishment and control of mercantile marine offices. 1854, ss. 122, 123, 128, 129. 86 & 37 Vict. c. 85, s. 10.

(2.) In every port (c) where there is a local marine board (d) the board shall procure the said buildings and property, and appoint and remove the superintendents (a),

(a) §§ 247, 742.
(b) § 94.

(c) Defined, § 742.
(d) § 244.

deputies, clerks, and servants, and regulate the business at, and have the control of, the mercantile marine office (e), subject as follows :—

- (a.) The sanction of the Board of Trade shall be necessary, so far as regards the number of persons to be so appointed, and the amount of their salaries and wages, and all other expenses :
- (b.) The Board of Trade shall have the immediate control of every such office, as far as regards the receipt and payment of money thereat, and every person appointed to be an officer in any such office shall, before entering upon his duties, give such security (if any) for the due performance thereof as the Board of Trade require.
- (c.) If the Board of Trade have reason to believe that any superintendent (f), deputy, clerk, or servant appointed by a local marine board (g) does not properly discharge his duties, they may cause the case to be investigated, and if they think fit remove him from his office, and provide for the proper performance of his duties until another person is duly appointed in his place.
- (d.) The Board of Trade may appoint any superintendent or other person connected with any sailors' home in the port of London to be a superintendent (f) with any necessary deputies, clerks, and servants, and may appoint an office in any such home to be a mercantile marine office (e), and all persons and offices so appointed shall be subject to the immediate control of the Board of Trade, and not of the local marine board (g) of the port.
- (3.) At any port (h) at which the business of a mercantile marine office (e) is conducted otherwise (e) than under a local marine board (g), the Board of Trade may :—
 - (a.) at any time establish a mercantile marine office (e) and for that purpose procure the requisite buildings and property, and appoint and remove all the

(e) § 246, s. 1.

(f) §§ 247, 742.

(g) § 244.

(h) Defined, § 742.

requisite superintendents (*i*), deputies, clerks, and servants; or

- (*b.*) direct with the consent of the Commissioners of Customs, that the whole or any part of the business of a mercantile marine office (*k*) shall be conducted at the custom house, and thereupon the custom house shall be a mercantile marine office (*k*) for the purposes of that business, and any officer of customs there appointed in that behalf by the Board of Trade shall be a superintendent (*i*) or deputy within the meaning of this Act.

247.—(1.) It shall be the general business of superintendents of mercantile marine offices (in this Act referred to as superintendents (*l*))—

Business of mercantile marine office.
1854, ss. 122, 124.

to afford facilities for engaging seamen (*m*) by keeping registries of their names and characters:

to superintend and facilitate the engagement and discharge of seamen (*m*) in manner in this Act provided (*n*):

to provide means for securing the presence on board at the proper times of the seamen (*m*) who are so engaged:

to facilitate the making of apprenticeships to the sea service (*o*): and

to perform such other duties relating to seamen (*m*), apprentices (*o*), and merchant ships (*m*) as are by or in pursuance of this Act, or any Act relating to merchant shipping, committed to them.

(2.) Any act done by, to, or before, a deputy duly appointed shall have the same effect as if done by, to, or before, a superintendent.

248.—(1.) A person appointed to any office or service by or under a local marine board (*p*) shall be deemed to be a clerk or servant within the meaning of section sixty-eight of the Larceny Act, 1861 (relating to embezzlement) (*q*).

Embezzlement by officers of local marine

(*i*) §§ 247, 742.

(*k*) § 246, s. 1.

(*l*) Cf. § 742.

(*m*) Defined, § 742.

(*n*) §§ 127, 128.

(*o*) §§ 105-109.

(*p*) § 244.

(*q*) Whoever, being a clerk or

boards.
1862, s.
16.

- (2.) If any person so appointed to an office or service—
 (a.) fraudulently applies or disposes of any chattel, money, or valuable security received by him (whilst employed in such office or service) for or on account of any local marine board (*r*), or for or on account of any other public board or department, for his own use, or any use or purpose other than that for which the same was paid, entrusted to, or received by him; or
 (b.) fraudulently withholds, retains, or keeps back the same, or any part thereof, contrary to any lawful directions or instructions which he is required to obey in relation to his office or service aforesaid,

that person shall be guilty of embezzlement within the meaning of the said section sixty-eight of the Larceny Act, 1861 (*s*).

24 & 25
Vict. c. 96,
s. 68.

(3.) In any indictment under this section, it shall be sufficient to charge any such chattel, money, or valuable security as the property either of the local marine board (*r*) by whom the person was appointed, or of the board or department for or on account of whom the same was received.

(4.) Section seventy-one of the Larceny Act, 1861 (relating to the manner of charging embezzlement (*t*)), shall

servant, or being employed for the purpose or in the capacity of a clerk or servant, shall fraudulently embezzle any chattel, money, or valuable security which shall be delivered to or received or taken into possession by him for or in the name or on the account of his master or employer, or any part thereof, shall be deemed to have feloniously stolen the same from his master or employer, although such chattel, money, or security was not received into the possession of such master or employer, otherwise than by the actual possession of his clerk, servant, or other person so employed; and being convicted thereof, shall be liable, at the discretion of the court, to be kept in penal servitude for any term not exceeding fourteen years, and not less than three years (cf. 54 & 55 Vict. c. 69, § 1), or to be imprisoned for any term not

exceeding two years, with or without hard labour, and with or without solitary confinement, and, if a male under the age of sixteen years, with or without whipping.

(*r*) § 244.

(*s*) See note (*q*), p. 189.

(*t*) § 71. (Distinct acts of embezzlement may be charged in same indictment.) For preventing difficulties in the prosecution of offenders in any case of embezzlement, fraudulent application, or disposition, hereinbefore mentioned, it shall be lawful to charge in the indictment, and proceed against the offender for, any number of distinct acts of embezzlement, or of fraudulent application or disposition, not exceeding three, which may have been committed by him against Her Majesty or against the same master or employer, within the space of six months from the first

apply as if an offence under this section were embezzlement under that Act.

249. The Board of Trade may dispense with the trans- Power to action in a mercantile marine office (*u*), or before a super- dispense intendent (*x*) of any matters required by this Act to be so with trans- acted, and thereupon those matters, if otherwise duly action of certain matters at mercantile marine offices, 1851, s. 130.

250. If a superintendent (*x*), deputy (*x*), clerk, or servant, Prohibition on taking fees at mercantile marine office, 1851, s. 127, 45 & 46 Vict. c. 55, s. 6. (S. L. R. Act, 1892). in a mercantile marine office (*u*) demands or receives save as provided by any Act, or authorised by the Board of Trade, any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman (*y*) for a ship (*y*) or transacting any business which it is his duty to transact, he shall for every such offence be liable to a fine not exceeding twenty pounds (*z*), and also to dismissal from his office by the Board of Trade.

Registration of and Returns respecting Seamen.

251.—(1.) There shall be maintained in the port of London, under the control of the Board of Trade, an office, called the General Register and Record Office of Seamen.

(2.) The Board of Trade may appoint and remove a Registrar-General called "The Registrar-General of Ship- ment of registration of and Returns respecting Seamen." ment of

to the last of such acts; and in every such indictment, where the offence shall relate to any money or any valuable security, it shall be sufficient to allege the embezzlement, or fraudulent application, or disposition, to be of money, without specifying any particular coin or valuable security; and such allegation, so far as regards the description of the property, shall be sustained, if the offender shall be proved to have embezzled, or fraudulently applied or disposed of, any amount, although the particular species of coin or valuable security of which such amount was composed shall not be proved; or if

he shall be proved to have embezzled, or fraudulently applied or disposed of, any piece of coin or any valuable security, or any portion of the value thereof, although such piece of coin or valuable security may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same, or to some other person, and such part shall have been returned accordingly.

(*u*) § 247, s. 1.

(*x*) §§ 247, 742.

(*y*) Defined, § 742.

(*z*) How recovered, §§ 680-684; how applicable, §§ 699, 716.

register
office.
1851, s.
271.
35 & 36
Vict. c. 73,
s. 4.

servants as may be necessary, and, with the consent of the Treasury, regulate their salaries and allowances; and those salaries and allowances, and all other necessary expenses, shall be paid out of moneys provided by Parliament.

(3.) The Board of Trade may direct that the business of the said office at any of the outports be transacted at the mercantile marine office (*a*) there, or with the consent of the Commissioners of Customs at the Custom House there, and may appoint the superintendent (*b*), or with the said consent some officer of customs, as the case may be, to conduct the business, and the business shall thereupon be conducted accordingly, subject to the immediate control of the Board of Trade.

Register
of seamen.
1854, s.
272.

252. The Registrar-General of Shipping and Seamen (*c*) shall, by means of the documents transmitted to him in pursuance of this Act (*d*), and by any other means in his power, keep at his office a register of all persons who serve in ships subject to this Act (*e*).

Lists of
the crew.
1854, ss.
273-275.
See 37 &
38 Vict. c.
88, s. 37.

253.—(1.) The master (*f*)—

(*a*.) of a foreign-going ship (*f*) whose crew is discharged in the United Kingdom, in whatever part of Her Majesty's dominions the ship is registered; and

(*b*.) of a home-trade ship (*f*);
shall make out and sign a list (in this Act referred to as the list of the crew (*gg*)), in a form approved by the Board of Trade, and containing the following particulars:—

(*i*.) the number and date of the ship's register, and her registered tonnage (*g*):

(*ii*.) the length and general nature of the voyage or employment:

(*a*) § 244, s. 1.

(*b*) §§ 247, 742.

(*c*) § 251.

(*d*) *e.g.* certificates, § 100; agreements with crew, §§ 115, s. 9; 116, s. 4; reports on character, § 129, s. 2; entries of desertion in official log-book, § 229; lists of crew, § 253; returns of births and deaths, § 254;

all documents received by superintendents, § 256.

(*e*) See Preliminary Note to Part II., and §§ 260-266.

(*f*) Defined, § 742.

(*g*) Cf. §§ 11, 82.

(*gg*) For meaning of "crew," see note to § 113.

- (iii.) the names, ages, and places of birth of all the crew including the master (*h*) and apprentices (*i*); their ratings on board, their last ships or other employments, and the dates and places of their joining the ship:
 - (iv.) the names of any of the crew who have ceased to belong to the ship, with the times, places, causes, and circumstances thereof:
 - (v.) the names of any members of the crew who have been maimed or hurt, with the time, place, cause, and circumstances thereof:
 - (vi.) the wages (*h*) due at the time of death to any of the crew who have died:
 - (vii.) the property (*k*) belonging to any of the crew who have died, with a statement of the manner in which it has been dealt with, and the money for which any part of it has been sold (*l*):
 - (ix.) any marriage which takes place on board with the date thereof, and the names and ages of the parties.
- (2.) The list of the crew (*m*)—
- (a.) in the case of a foreign-going ship (*h*), shall be delivered by the master (*h*) within forty-eight hours after the arrival of the ship at her final port (*h*) of destination in the United Kingdom, or upon the discharge of the crew, whichever first happens, to the superintendent (*n*) before whom the crew is discharged (*o*); and
 - (b.) in the case of a home-trade ship (*h*), shall be delivered or transmitted by the master (*h*) or owner (*p*) to some superintendent (*n*) in the United Kingdom on or within twenty-one days after the thirtieth day of June and the thirty-first day of December in each year (*pp*); and the superintendent (*n*) shall give to such master (*h*)

(*h*) Defined, § 742.

(*i*) §§ 105–109.

(*k*) § 169, s. 5.

(*l*) § 169, s. 2.

(*m*) § 253, s. 1 (*a.*); cf. § 113, note.

(*n*) §§ 247, 742.

(*o*) § 127.

(*p*) See note to § 58.

(*pp*) The lists, under § 256, shall be transmitted to the Registrar-General; § 251.

or owner (*q*) a certificate of such delivery or transmission, and any such ship may be detained until the certificate is produced (*r*), and an officer of customs shall not clear inwards any foreign-going ship (*s*) until the certificate is produced.

(3.) If the master (*s*) in the case of a foreign-going ship (*s*), or the master (*s*) or owner (*q*) in the case of a home-trade ship (*s*), fails (*t*) without reasonable cause to deliver or transmit the list of the crew (*u*) as required by this section (*x*), he shall for each offence be liable to a fine not exceeding five pounds (*y*).

Return of
births and
deaths in
British
ships.
37 & 38
Vick.'o.
88, s. 37.

254.—(1.) The master (*s*) of every British (*z*) ship (*s*), whether registered or not in the United Kingdom, shall, as soon as may be after the occurrence of the birth of a child or the death of a person happening on board his ship, record in his log-book or otherwise (*a*) the fact of the birth or death, and the particulars required by the Eighth Schedule to this Act to be registered concerning the birth or death, or such of them as may be known to him.

(2.) The master (*s*) of every British (*z*) ship (*s*), upon its arrival at any port (*s*) in the United Kingdom, or at such other time and place as the Board of Trade may with respect to any ship or class of ships direct, shall deliver or transmit, in such form as the Board of Trade direct, a return of the facts recorded (*b*) by him in respect to the birth of a child or the death of a person on board such ship, to the Registrar-General of Shipping and Seamen (*c*).

(3.) Where the said return is directed by the Board of Trade to be delivered or transmitted upon the arrival of the ship (*s*) or the discharge of the crew or otherwise at any port (*s*) out of the United Kingdom, the Board of Trade

(*q*) See note to § 58.

(*r*) § 692.

(*s*) Defined, § 742.

(*t*) Includes refusal. See § 742.

(*u*) § 253, s. 1 (*a*).

(*x*) § 253, s. 2 (*b*).

(*y*) How recovered, §§ 680-684;

how applicable, §§ 699, 716.

(*z*) See note to § 1.

(*a*) This need not be the official log-book under §§ 239, 240.

(*b*) See sub-s. 1.

(*c*) § 251.

may, if they think fit, direct that the return, instead of being delivered or transmitted to the Registrar-General of Shipping and Seamen (*d*), shall be delivered, and the same shall accordingly be delivered, if the port (*e*) is in a British possession (*f*), to the superintendent (*g*) or chief officer of customs (*e*) at such port, and if it is elsewhere, to the British consular officer (*h*) at the port, and such superintendent (*g*) or officer shall transmit the same as soon as may be to the Registrar-General of Shipping and Seamen (*d*).

(4.) The Registrar-General of Shipping and Seamen (*d*) shall send a certified copy of the returns relating to such births and deaths as follows; that is to say,—

(*a*.) if it appears from the return that the father of the child so born, or if the child is a bastard the mother of the child, or that the person deceased was a Scotch or Irish subject of Her Majesty, then to the Registrar-General of Births and Deaths in Scotland or Ireland, as the case may require; and

(*b*.) in any other case to the Registrar-General of Births and Deaths in England;

and such Registrar-General of Births and Deaths shall cause the same to be filed and preserved in or copied in a book to be kept by him for the purpose, and to be called the marine register book; and such book shall be a certified copy of the register book within the meaning of the Acts relating to the registration of births and deaths in England, Scotland, and Ireland respectively (*i*).

(5.) If the master (*e*) of any ship (*e*) fails (*k*) to comply with any requirement of this section, he shall be liable for each offence to a fine not exceeding five pounds (*l*).

255.—(1.) Where by reason of the transfer of owner-ship (*m*) or change of employment (*n*) of a ship (*e*) the list

Return in case of transfer or loss of ship.
1854, s. 276.

(*d*) § 251.

(*e*) Defined, § 742.

(*f*) Int. Act, 1889, § 18, s. 2.

(*g*) §§ 247, 742.

(*h*) Int. Act, 1889, § 12, s. 20.

(*i*) England, 3 & 4 Vict. c. 9, ss. 5-16; Scotland, 17 & 18 Vict. c. 80, ss. 17, 56-58; Ireland, 26 & 27 Vict.

c. 11; 43 & 44 Vict. c. 11.

(*k*) Includes refusal; § 742.

(*l*) How recovered, §§ 680-684; how applicable, §§ 699, 716.

(*m*) As when a ship ceases to be a British ship; cf. § 1.

(*n*) As from foreign trade to home trade; cf. § 742 and § 253, s. 2.

of the crew (*p*) ceases to be required in respect of the ship, or to be required at the same date (*q*), the master (*r*) or owner (*s*) of the ship shall, if the ship is then in the United Kingdom, within one month, and, if she is elsewhere, within six months, after that cessation deliver or transmit to the superintendent (*t*) at the port (*r*) to which the ship belonged (*u*) the list of the crew (*p*), duly made up to the time of the cessation (*x*).

(2.) If a ship is lost or abandoned, the master (*r*) or owner (*s*) thereof shall, if practicable, and as soon as possible, deliver or transmit to the superintendent (*t*) at the port to which the ship belonged (*u*) the list of the crew (*p*), duly made out to the time of the loss or abandonment (*x*).

(3.) If the master (*r*) or owner (*s*) of a ship fails (*y*), without reasonable cause, to comply with this section, he shall for each offence be liable to a fine not exceeding ten pounds (*z*).

Transmis-
sion of
documents
to regis-
trar by
superin-
tendents
and other
officers.
1854, s.
277.
50 & 51
Vict. c. 62,
s. 4.

256.—(1.) All superintendents (*t*) and all officers of customs shall take charge of all documents which are delivered or transmitted to or retained by them in pursuance of this Act, and shall keep them for such time (if any) as may be necessary for the purpose of settling any business arising at the place where the documents come into their hands, or for any other proper purpose, and shall, if required, produce them for any of those purposes, and shall then transmit them to the Registrar-General of Shipping and Seamen (*a*), and he shall record and preserve them, and they shall be admissible in evidence in manner provided by this Act (*b*), and they shall, on payment of a moderate fee fixed by the Board of Trade, or without payment if the Board so direct, be open to the inspection of any person.

- (*p*) § 253.
- (*q*) As on a change from foreign trade to home trade; cf. § 742 and § 253, s. 2.
- (*r*) Defined, § 742.
- (*s*) See note to § 58.
- (*t*) §§ 247, 742.

- (*u*) § 13.
- (*x*) See § 256.
- (*y*) Includes refusal; § 742.
- (*z*) How recovered, §§ 680-684; how applicable, §§ 699, 716.
- (*a*) § 251.
- (*b*) § 695.

(2.) The documents aforesaid shall be public records and documents within the meaning of the Public Record Offices Acts, 1838 and 1877, and those Acts shall, where applicable, apply to those documents in all respects, as if specifically referred to therein.

257.—(1.) Whenever a ship (c), in whatever part of Her Majesty's dominions it is registered (except a ship whose business for the time being is to carry passengers (d) whether cabin or steerage passengers) (e), arrives at a port (c) in a British possession (f) or at a port (c) elsewhere at which there is a British consular officer (g), and remains thereat for forty-eight hours, the master (c) shall, within forty-eight hours of the ship's arrival, deliver to the chief officer of customs (c) or to the consular officer (g) (as the case may be,) the agreement with the crew (h), and also all indentures and assignments of apprenticeships (i), or, if the ship is registered in a British possession (f), such of those documents as the ship is provided with:

(2.) The officer (k) shall keep the documents during the ship's stay in the port (c), and in cases where any endorsements upon the agreement are required by this Act (l) shall make the same, and shall return the documents to the master within a reasonable time before his departure, with a certificate endorsed on the agreement (h), stating the time when the documents were respectively delivered and returned:

(3.) If it appears that the required forms have been neglected, or that the existing laws have been transgressed, the officer (k) shall make an endorsement to that effect on the agreement (h), and forthwith transmit a copy of the endorsement, with the fullest information he can collect regarding the neglect or transgression, to the Registrar-General of Shipping and Seamen (m):

(4.) If the master (c) of a ship (c) fails (n) without reason-

(c) Defined. § 742.

(d) Cf. § 267.

(e) § 268, s. 3.

(f) Int. Act, 1879, § 18, s. 2.

(g) Ibid. § 12, s. 20.

(h) § 113.

(i) §§ 105-109.

(k) Sub.-s. 1.

(l) See notes to § 114.

(m) § 251.

(n) Includes refusal; § 742.

1 & 2 Vict.
c. 94;
§§ 11-20.
40 & 41
Vict. c.
55; § 1.

Deposit of
documents
at foreign
ports and
in colonies.
1854, s.
279.

able cause to deliver any document in pursuance of this section, he shall for each offence be liable to a fine not exceeding twenty pounds (*o*); and in any prosecution for that fine it shall lie upon the master either to produce the said certificate (*p*), or to prove that he duly obtained it, or that it was impracticable for him to obtain it.

Documents to be handed over to successor on change of master. 1854, s. 259.

258. If during the progress of a voyage the master (*q*) is removed, or superseded, or for any other reason quits the ship, and is succeeded in the command by some other person, he shall deliver to his successor the various documents (*r*) relating to the navigation of the ship (*q*) and to the crew thereof which are in his custody, and if he fails (*s*) without reasonable cause (*t*) so to do, he shall be liable to a fine not exceeding one hundred pounds (*u*); and his successor shall immediately on assuming the command of the ship, enter in the official log-book (*x*) a list of the documents so delivered to him.

Sites for Sailors' Homes.

Corporations, &c., may grant sites for sailors' homes. 1854, s. 546.

259. The corporation of a municipal borough, being a port (*q*) in the United Kingdom, and any body corporate, association, or trustees in any such port, existing or constituted for any public purposes relating to the government or benefit of persons engaged in the British merchant service, or to the management of docks and harbours (*q*), or for any other public purposes connected with shipping or navigation, may, with the consent of the Local Government Board, appropriate any land vested in them or in trustees for them as a site for a sailors' home, and may for that purpose either retain and apply the same accordingly, or convey the same to trustees, with such powers for appointing new trustees and continuing the trust as they think fit.

(*o*) How recovered, §§ 680-684; how applicable, §§ 699, 716.

(*p*) Sub-s. 2.

(*q*) Defined, § 742.

(*r*) *e.g.* register, log-book, agreement with the crew, in lectures of apprenticeship, bills of health, &c.

(*s*) Includes refusal; § 712.

(*t*) Wrongful dismissal is no excuse for detention, and gives no lien on the documents. *The St. Olaf* (1876), 3 Asp. M. C. N. S. 268.

(*u*) How recovered, §§ 680-684; how applicable, §§ 699, 716.

(*x*) §§ 239, 240.

Application of Part II. (y).

260 (g). This Part of this Act shall, unless the context or subject-matter requires a different application (z), apply to all sea-going (a) ships (b) registered in the United Kingdom, and to the owners (c), masters (b), and crews of such ships subject as herein-after provided (d) with respect to—

*Applica-
tion of
Part II.
to ships
registered
in the
United
Kingdom.
1854, s.
109.*

- (a.) ships belonging to any of the three general light-house authorities (e);
- (b.) pleasure yachts; and
- (c.) fishing-boats (f).

261 (y). This Part of this Act shall, unless the context or subject-matter requires a different application (z), apply to all sea-going (a) British (g) ships (h) registered out of the United Kingdom, and to the owners (c), masters (b), and crews thereof as follows; that is to say,

*Applica-
tion of
Part II.
to ships
registered
elsewhere
than in
the United
Kingdom.
1854, s.
109.*

- (a.) the provisions relating to the shipping (i) and discharge (k) of seamen in the United Kingdom and to volunteering into the Navy (l) shall apply in every case;
- (b.) the provisions relating to lists of the crew (m) and to the property of deceased seamen and apprentices (n) shall apply where the crew are discharged (k), or the final port (b) of destination of the ship is, in the United Kingdom; and
- (c.) all the provisions shall apply where the ships (b) are

(y) See Preliminary Note to this Part.

(z) As there are no words saying the Part shall not apply to other ships, Dr. Lushington's reasoning in *The Milford* (1858), Swabey, 362, and *The Jonathan Goodhue* (1859), Swabey, 524, allowing the master of a foreign sea-going ship the same remedies for his wages as an English master (§ 167), appears to stand.

(a) "Sea-going" is interpreted in *Salt Union v. Wood* (1893), 1 Q. B. 370, as in fact going to sea, and a registered British ship carrying salt on the Mersey was held not a "sea-going" ship within this section. The

court did not decide whether a ship which sometimes went to sea, but at the time was plying inland, was a sea-going ship.

(b) Defined, § 742.

(c) See note to § 58.

(d) § 262.

(e) Cf. Part XI.

(f) Cf. Part IV.

(g) See note to § 1.

(h) §§ 239, 240.

(i) §§ 118-124.

(k) §§ 127-130.

(l) §§ 195-197.

(m) § 253, *et seq.*

(n) §§ 169-181.

employed in trading or going (*o*) between any port (*p*) in the United Kingdom, and any port (*p*) not situate in the British possession (*q*) or country in which the ship is registered ; and

- (*d.*) the provisions relating to the rights of seamen (*p*) in respect of wages (*r*), to the shipping and discharge of seamen in ports abroad (*s*), to leaving seamen abroad (*s*) and to the relief of seamen in distress in ports abroad (*t*), to the provisions, health, and accommodation of seamen (*u*), to the power of seamen to make complaints (*x*), to the protection of seamen from imposition (*y*), and to discipline (*z*), shall apply in every case except where the ship (*p*) is within the jurisdiction of the government of the British possession (*q*) in which the ship is registered.

Partial
applica-
tion of
Part II. to
ships of
lighthouse
authorities
and
pleasure
yachts.
1854, s.
109; 1862,
s. 13.

262 (*a*). The following provisions of this Part of this Act shall not apply to ships belonging to the three general lighthouse authorities (*b*) or to pleasure yachts, or to the owners (*c*), masters (*p*), and crews thereof, namely, the provisions relating to—

- (*a.*) the requirement of officers to hold certificates of competency, and the production of those certificates (*d*);
(*b.*) the exemption from stamp duty and record of indentures of apprenticeship, and matters to be done for the purpose of such record (*e*);
(*c.*) the entry in the agreement with the crew (*f*) of the particulars respecting apprentices, and matters to be done for the purpose of such entry (*g*);
(*d.*) the engagement or supply of seamen or apprentices by or through unlicensed persons (*h*);

(*o*) As to these words, see cases cited on Pilotage, § 625, and especially *Courtney v. Cole* (1887), 19 Q. B. D. 447.

(*p*) Defined, § 742.

(*q*) Int. Act, 1889, § 18, s. 2.

(*r*) §§ 155-163.

(*s*) §§ 117, 124, 186-189.

(*t*) §§ 190-194.

(*u*) §§ 198-210.

(*x*) § 211.

(*y*) §§ 212-219.

(*z*) §§ 220-238.

(*a*) See Preliminary Note to this Part.

(*b*) Cf. Part XI.

(*c*) See note to § 58.

(*d*) §§ 92-104.

(*e*) § 108, ss. 1, 2.

(*f*) § 113, *et seq.*

(*g*) § 109, s. 2.

(*h*) §§ 111, 112.

- (e.) agreements with the crew (*i*) (except the provisions relating to the engagement of a seaman abroad (*k*));
- (f.) the compulsory discharge and payment of seamen's wages before a superintendent and the compulsory delivery of an account of wages (*l*);
- (g.) the accommodation for seamen (*m*);
- (h.) the deduction and payment of fines imposed under stipulations in the agreement (*n*);
- (i.) the delivery of documents at ports abroad to consular or customs officers (*o*); or
- (j.) official log-books (*p*).

263 (q).—(1.) This Part of this Act (except the provisions thereof relating to the transmission and delivery of lists of crews (*r*), volunteering into the Navy (*s*), and the property of deceased seamen (*t*)) shall not, subject as herein-after provided with respect to Scotland (*u*) or by the Fourth Part of this Act, apply to fishing-boats (*x*) exclusively employed in fishing on the coasts of the United Kingdom, or to the owners (*y*), skippers, and crews thereof.

Partial application of Part II. to fishing boats. 1854, s. 109; 1862, s. 18. 46 & 47 Vict. c. 41, ss. 1, 55.

- (2.) The provisions of this Part of this Act relating to—
- (a.) apprenticeships to the sea service (§§ 105–109);
- (b.) compulsory agreements with the crew (§ 113, *et seq.*);
- (c.) the alteration, falsification, or posting up of copies of agreements with the crew (§§ 120–122);
- (d.) compensation to seamen improperly discharged (§ 162);
- (e.) the delivery of an account of wages (§ 182);
- (f.) the granting of certificates of discharge and the return of certificates of competency by the master (§ 128);
- (g.) the decision of questions by the superintendent when referred to him (§ 187);
- (h.) the production of the ship's papers by the master

- (i) § 113, *et seq.*
- (k) § 124.
- (l) §§ 127, 131, 132.
- (m) § 210.
- (n) § 235.
- (o) § 257.
- (p) §§ 239–243.

- (q) See Preliminary Note to Part II.
- (r) § 253, *et seq.*
- (s) §§ 195–197.
- (t) §§ 169–181.
- (u) Sub-s. 3.
- (z) Cf. § 370.
- (y) See note to § 58.

to the superintendent in proceedings under this Act before him (§ 138); or

- (i.) the sections constituting the offences of desertion, absence without leave, and offences against discipline (§§ 221, 225).

shall not, subject as in this section mentioned with respect to Scotland (z), apply to any fishing-boats (a) whether or not exclusively employed in fishing on the coasts of the United Kingdom, or to the owners (b), skippers, and crews thereof.

(3.) So far as respects Scotland all of this Part of this Act (except the provisions thereof declared not to apply to ships belonging to the general lighthouse authorities or to pleasure yachts (c)) shall apply to fishing-boats (a), whether or not exclusively employed in fishing on the coasts of the United Kingdom, and to the owners (b), skippers, and crews thereof in like manner as it applies to other ships (d), and the owners, skippers, and crews thereof.

Applica-
tion of
Part II. to
Colony by
Colonial
legisla-
tures.
1854, s.
288.

264(e). If the legislature (f) of a British possession (g), by any law, apply or adapt to any British (h) ships (i) registered at, trading with, or being at, any port (i) in that possession, and to the owners (b), masters (i), and crews of those ships, any provisions of this Part of this Act which do not otherwise so apply, such law shall have effect throughout Her Majesty's dominions, and in all places where Her Majesty has jurisdiction in the same manner as if it were enacted in this Act.

Conflict of
laws.
1854, s.
290.

265(e). Where in any matter relating to a ship (i) or to a person belonging to a ship there appears to be a conflict of laws, then, if there is in this Part of this Act any provision on the subject which is hereby expressly made to extend to that ship, the case shall be governed by that provision;

(z) Sub-s. 3.

(a) Cf. § 370.

(b) See note to § 58.

(c) § 262.

(d) § 260.

(e) See Preliminary Note to Part II.

(f) Int. Act, 1889, § 18, s. 7.

(g) Int. Act, 1889, § 18, s. 2.

(h) Note to § 1.

(i) Defined, § 742.

but if there is no such provision, the case shall be governed by the law of the port at which the ship is registered (*k*).

266 (*l*). This Part of this Act shall apply to an unregistered British (*m*) ship (*n*) which ought to have been registered under this Act (*o*), as if such ship had been registered in the United Kingdom (*p*).

(*k*) Cf. § 13.

(*l*) See Preliminary Note to Part

II.

(*m*) Note to § 1.

(*n*) Defined, § 742.

(*o*) §§ 2, 3.

(*p*) § 260.

Unregistered ship deemed to be registered in United Kingdom for certain purposes. 1883, n. 49.

PART III.

The marginal references are to the statutes reproduced.

1854 = 17 & 18 Vict. c. 104.

1855 = 18 & 19 Vict. c. 119.

1862 = 25 & 26 Vict. c. 63.

1863 = 26 & 27 Vict. c. 51.

Int. Act, 1889 = Interpretation Act, 1889 (52 & 53 Vict. c. 63); see Appendix.

PRELIMINARY NOTE TO PART III.

PASSENGER AND EMIGRANT SHIPS.

THIS Part of the Act reproduces the provisions of the Passenger Act, 1855 (18 & 19 Vict. c. 119), the Passengers Act Amendment Act, 1863 (26 & 27 Vict. c. 51), some parts of the Act of 1854, and other statutes amending them. It applies to :—

I. Passenger steamers.

II. Emigrant ships.

A passenger steamer may, but need not, be also an emigrant ship, and *vice versâ*.

I. A *passenger steamer*, defined in § 267, includes—

- (1.) All steamers, whether British or foreign, carrying passengers between places in the United Kingdom ;
- (2.) All British steamers carrying passengers to or

from any place in the United Kingdom, whatever the other *terminus* of their voyage.

Sections 271-284 require every passenger steamer carrying more than twelve passengers to be surveyed once a year as therein provided, unless, being also an emigrant ship, she has been surveyed as an emigrant ship. Sections 285-288 provide for the equipment and discipline of passenger steamers.

II. Emigrant ships (called "passenger ships" in the old Acts) comprise all sea-going ships, whether British or foreign, carrying, when they leave a British port, more than a certain proportion to their tonnage of steerage passengers, as defined in § 268, upon voyages from the British Islands to any port out of Europe, and not within the Mediterranean Sea (§ 364). If they carry no steerage passengers, or not more than the proportion defined in § 268, it is immaterial how many cabin passengers, as defined in the same section, they carry. If steamers, such vessels may be liable to survey as "passenger steamers," but, if sailing ships, they will be liable to no survey under this Part, unless they come within the definition of "emigrant ships."

Further, some provisions of this Part, defined in § 365, apply to ships carrying steerage passengers on colonial voyages (§ 270), that is, voyages from any port in a British possession other than British India or Hong Kong, to any port whatever, more than four hundred miles off, or where the voyage exceeds three days. The application of the Part varies according as the colonial voyage exceeds three weeks or not.

There are also special provisions for voyages from a British possession (§ 366); between the Australasian colonies (§ 367); and from British India (§ 368).

The provisions as to emigrant ships include regulations

as to their equipment (§ 290) ; number of and accommodation for passengers (§§ 291-294) ; supply of provisions, water, and medical stores (§§ 295-300) ; medical officers, staff, crew, and medical inspection (§§ 308-308) ; inspection by the emigration officer (§§ 314-319) ; passengers' contracts (§ 320), and their effect (§§ 327-334) ; passage brokers (§§ 341-346) ; and emigrant runners (§§ 347-352).

PART III.

ARRANGEMENT OF SECTIONS.

PASSENGER AND EMIGRANT SHIPS.

1. DEFINITIONS.

Definition of Passenger Steamer and Passenger.

Section.

267. Definition of "passenger" and "passenger steamer" (p. 213).

Definition of Emigrant Ship, &c.

268. "Emigrant ship," &c., to which this Part applies (p. 214).
 269. Scale for determining length of voyages (p. 216).
 270. Definition of colonial voyage (p. 216).

2. PASSENGER STEAMERS.

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 272. Mode of survey and declaration of survey (p. 217).
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 278. Duration of certificates (p. 220).
 279. Cancellation of certificate (p. 221).
 280. Delivery up of certificate (p. 221).
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285. Equipment of passenger steamers with compasses, hose, deck shelters, and safety appliances (p. 223).
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3. EMIGRANT SHIPS.

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289. Preliminary survey of emigrant ship (p. 227).

Equipments.

290. Equipment with compasses, chronometers, fire-engine, anchors, &c. (p. 229).

Number of, and Accommodation for, Passengers.

291. Regulations as to carrying of passengers generally (p. 229).
 292. Limit of number of steerage passengers to be carried on emigrant ships (p. 230).
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Provisions, Water, and Medical Stores.

295. Supply of provisions and water (p. 231).
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301. Regulations as to carriage of dangerous goods, and of horses and cattle (p. 236).
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- 311. Passengers' lists (p. 244).
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- 314. Certificate for clearance (p. 246).
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367. Power of governors of colonies as to numbers of steerage passengers (p. 275).
368. Power for legislature of India to apply Part III. (p. 276).
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The marginal references are to the statutes reproduced.

1854 = 17 & 18 Vict. c. 104.

1855 = 18 & 19 Vict. c. 119.

1862 = 25 & 26 Vict. c. 63.

1863 = 26 & 27 Vict. c. 51.

Int. Act, 1889 = Interpretation Act, 1889 (52 & 53 Vict. c. 63); see Appendix.

PART III.

PASSENGER AND EMIGRANT SHIPS.

1. DEFINITIONS.

Definition of Passenger Steamer and Passenger.

267. For the purposes of this Part of this Act—

The expression “passenger” shall include any person carried in a ship (a) other than the master (a) and crew (b), and the owner, his family and servants (c); and

The expression “passenger steamer” shall mean every British (d) steamship (e) carrying passengers to, from, or between any places in the United Kingdom, except steam ferry boats working in chains (commonly called steam

Definition of “passenger” and “passenger steamer.” 1854, ss. 291, 303.

(a) Defined, § 742.

(b) See note to § 113.

(c) This definition is not construed strictly; thus the following have been held not to be “passengers:”—

Relatives of the captain, on board without the knowledge of, and under no contract with, the owners:—*The Lion* (1869), L. R. 2 P. C. at p. 530, in which case the court considered the payment of a fare one of the essentials:—

A person who had a free passage,

working his way, but messed at the captain's table, described by Dr. Lushington as “a nondescript:”—*The Hanna* (1866), L. R. 1 A. & E., at p. 292:—

A school choir taken for a free trip on the Orwell:—*Hedges v. Hooker* (1889), 6 Asp. M. C. 386. (But see the contrary Irish decision in *R. v. Dublin* (1884), 15 Cox C. C. 379.)

(d) See note to § 1.

(e) Cf. § 743.

bridges) and every foreign steamship carrying passengers between places in the United Kingdom.

Definition of Emigrant Ship (f), &c.

"Emigrant ship," &c., to which Part applies. 1855, s. 3. 1863, ss. 3, 4.

268. For the purposes of this Part of this Act, unless the context otherwise requires—

(1.) The expression "emigrant ship" shall mean every sea-going (g) ship (h), whether British (i) or foreign, and whether or not conveying mails, carrying, upon any voyage to which the provisions of this Part of this Act respecting emigrant ships apply (k), more than fifty steerage passengers (l) or a greater number of steerage passengers than in the proportion,

(a.) if the ship is a sailing ship, of one statute adult (m) to thirty-three tons of the ship's registered tonnage; and

(b.) if the ship is a steam ship, of one statute adult (m) to every twenty tons of the ship's registered tonnage; and

includes a ship (h) which, having proceeded from a port (h) outside the British Islands (n), takes on board at any port (h) in the British Islands (n) such number of steerage passengers (l), whether British subjects or aliens resident in the British Islands, as would, either with or without the steerage passengers (l) which she already has on board, constitute her an emigrant ship;

(2.) The expression "statute adult" shall mean a person of the age of twelve years or upwards, and two persons between the ages of one and twelve years shall be treated as one statute adult;

(3.) The expression "steerage passenger" (o) shall mean all passengers (p) except cabin passengers,

(f) This word is substituted for "passenger ship" in the old Acts.

(g) i.e. ship which goes to sea. *Salt Union v. Wood* (1893), 1 Q. B. 370.

(h) Defined, § 742.

(i) See note to § 1.

(k) §§ 364, 365.

(l) § 268, s. 3.

(m) § 268, s. 2.

(n) Int. Act, 1889, § 18, s. 1.

(o) The phrase, "steerage passenger," is substituted for "passenger," the term used in the Acts reproduced.

(p) § 267.

and persons shall not be deemed cabin passengers unless—

- (a.) the space allotted to their exclusive use is in the proportion of at least thirty-six clear superficial feet to each statute adult (*q*) ; and
- (b.) they are messes throughout the voyage at the same table with the master (*r*) or first officer of the ship ; and
- (c.) the fare contracted to be paid by them is in the proportion for every week of the length of the voyage (as determined under this Part of this Act for sailing vessels (*s*)) of thirty shillings (*t*), if the voyage of the ship is from the British Islands (*u*) to a port south of the equator, and twenty shillings (*t*), if the voyage of the ship is from the British Islands (*u*) to a port north of the equator ; and
- (d.) they have been furnished with a duly signed contract ticket in the form prescribed by the Board of Trade for cabin passengers (*x*) ;
- (4.) The expression "steerage passage" shall include passages of all passengers except cabin passengers (*y*) ;
- (5.) The expression "upper passenger deck" shall mean and include the deck immediately beneath the upper deck, or the poop or round house and deck house when the number of passengers (*z*), whether cabin or steerage passengers (*y*), carried in the poop, round house, or deck house, exceeds one third of the total number of steerage passengers (*y*) which the ship can lawfully carry on the deck next below ;
- (6.) The expression, "lower passenger deck," shall mean

(*q*) § 268, s. 2.

(*r*) Defined, § 742.

(*s*) § 269.

(*t*) *i.e.* at least that amount.

(*u*) Int. Act, 1889, § 18, s. 1.

(*x*) § 320 ; but only cabin passengers on emigrant ships need have such a ticket (see note to § 320) ; consequently, persons fulfilling the first three conditions on a ship having,

without them, less than the number of steerage passengers requisite to make her an emigrant ship, need not have a contract ticket, and yet will not be treated as steerage passengers. *Ellis v. Pearce* (1858), 27 L. J. M. C. 257.

(*y*) Sub.-s. 3.

(*z*) § 267.

and include the deck next beneath the upper passenger deck not being an orlop deck.

Scale for
determin-
ing length
of voyages.
1855, ss.
80, 87.

269. For the purpose of this Part of this Act the length of the voyage of an emigrant ship (a) from the British Islands (b) to any port (c) elsewhere shall be determined by such of the scales fixed by the Board of Trade as is applicable thereto, and the Board of Trade may fix the scales by notice published in the London Gazette (d), and may fix such different lengths of voyage as they think reasonable for different descriptions of ships (c).

Definition
of colonial
voyage.
1855, s.
95.

270. For the purposes of this Part of this Act a colonial voyage means a voyage from any port (c) in a British possession (e), other than British India (f) and Hong Kong, to any port (c) whatever, where the distance between such ports (c) exceeds four hundred miles, or the duration of the voyage, as determined under this Part of this Act (g), exceeds three days.

2. PASSENGER STEAMERS (h).

Survey of Passenger Steamers (h).

Annual
survey of
passenger
steamers.
1854, s.
818.
1862, s.
84.
85 & 86
Vict. c. 78,
s. 8.
89 & 40
Vict. c. 80,
ss. 16, 18.

271.—(1.) Every passenger steamer (i) which carries more than twelve passengers (h) shall—

- (a.) be surveyed once at least in each year in the manner provided in this Part of this Act (k); and
- (b.) shall not ply or proceed to sea (l) or on any voyage or excursion with any passengers (h) on board, unless the owner (m) or master (c) has the certificate from the Board of Trade as to survey under this Part of this Act (n), the same being in force, and applicable to the

(a) § 268, s. 1.

(b) Int. Act, 1889, § 18, s. 1.

(c) Defined, § 742.

(d) § 740; for the scales at present in force, see Appendix.

(e) Int. Act, 1889, § 18, s. 2.

(f) Ibid. § 18, s. 4.

(g) § 269.

(h) § 267.

(i) Cf. § 743.

(k) § 272, *et seq.*

(l) A steamer carrying a choir for a gratuitous excursion (*Hedges v. Hooker* (1889), 6 Asp. M. C. 386), and a small electric launch running on an artificial lake (*Southport v. Morris* (1893), 1 Q. B. 359), have been held not to be plying with passengers.

(m) See note to § 58.

(n) § 274.

voyage or excursion on which the steamer is about to proceed (o).

(2.) A passenger steamer (*p*) attempting to ply or go to sea may be detained (*q*) until such certificate as aforesaid (*r*) is produced to the proper officer of Customs.

(8.) Provided that, while a steamer is an emigrant ship (*s*) and the provisions of this Part of this Act (*t*) as to the survey of the hull, machinery and equipments of emigrant ships (*s*) have been complied with, she shall not require a survey or certificate under this section.

272.—(1.) The owner (*u*) of every passenger steamer (*p*) shall cause the same to be surveyed by a shipwright surveyor of ships (*x*) and an engineer surveyor of ships (*x*), the shipwright surveyor being, in the case of an iron steamer, a person properly qualified in the opinion of the Board of Trade to survey an iron steamer (*y*).

Mode of survey and declaration of survey.
1854, s. 309.
1862, s. 12, 35 & 36
Vict. c. 73, s. 8.

(2.) The surveyors, if satisfied on the survey that they can with propriety do so, shall deliver to the owner (*u*) declarations of survey (*z*) in a form approved by the Board of Trade (*a*).

(3.) The declaration of the shipwright surveyor (*a*) shall contain statements of the following particulars:—

(a.) that the hull of the steamer is sufficient for the service intended and in good condition:

(b.) that the boats, life buoys, lights, signals, compasses, and shelter for deck passengers, are such, and in such condition, as are required by this Act (*b*):

(c.) the time (if less than one year) for which the hull and equipments will be sufficient:

(d.) the limits (if any) beyond which, as regards the hull

(o) Such plying by the captain without the owner's knowledge would not vitiate an insurance policy. *Dudgeon v. Pembroke* (1874), L. R. 9 Q. B. 581.

(p) Defined, § 267. *Semble*, that this must be read, "every such passenger steamer," referring to § 271, which only requires steamers carrying more than twelve passengers to be surveyed.

(q) § 692.

(r) § 274.

(s) § 268, s. 1.

(t) § 289, *et seq.*

(u) Note to § 58.

(x) § 724.

(y) The protection from actions given by § 355 does not apply here, this being a provision for passenger steamers only.

(z) Penalties for forging, &c.; § 282.

(a) Appeal from surveyors; § 275.

(b) §§ 265, 427.

and equipments, the steamer is in the surveyor's judgment not fit to ply :

(*e.*) the number of passengers (*c.*) which the steamer is in the judgment of the surveyor fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabins ; those numbers to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried, or other circumstances, as the case requires :

(*f.*) that the certificates of the master (*d.*) and mate or mates are such as are required by this Act (*e.*).

(4.) The declaration of the engineer surveyor (*f.*) shall contain statements of the following particulars, namely :—

(*a.*) that the machinery of the steamer is sufficient for the service intended, and in good condition :

(*b.*) the time (if less than one year) for which the machinery will be sufficient :

(*c.*) that the safety valves and fire hose are such and in such condition as are required by this Act (*g.*) :

(*d.*) the limit of the weight to be placed on the safety valves (*h.*) :

(*e.*) the limits (if any) beyond which, as regards the machinery, the steamer is in the surveyor's judgment not fit to ply :

(*f.*) that the certificates of the engineer or engineers of the steamer are such as are required by this Act (*e.*).

Transmis-
sion of
declara-
tion.
1854, s.
310.

273.—(1.) The owner (*i.*) of a steamer surveyed shall within fourteen days after the receipt by him of a declaration of survey (*k.*) transmit it to the Board of Trade.

(2.) If an owner (*i.*) fails (*l.*) without reasonable cause so to transmit a declaration of survey (*k.*), he shall forfeit a sum not exceeding ten shillings for every day during

(*c.*) § 267.

(*d.*) Defined, § 742.

(*e.*) § 92, *et seq.*

(*f.*) § 724.

(*g.*) § 285.

(*h.*) § 286.

(*i.*) Note to § 58.

(*k.*) § 272, s. 2.

(*l.*) Includes refusal ; § 742.

which the transmission is delayed, and any sum so forfeited shall be payable on the granting of a certificate in addition to the fee, and shall be applied in the same manner as the fee (*m*).

274. On the receipt of the declarations of survey (*n*), the Board of Trade shall, if satisfied that this Part of this Act has been complied with, issue in duplicate a passenger steamer's certificate (*o*), that is to say, a certificate stating such compliance and stating, according to the declarations—

Issue of
passenger
steamer's
certificate.
1854, s.
312.

- (a.) the limits (if any) beyond which the steamer is not fit to ply; and
- (b.) the number of passengers (*p*) which the steamer is fit to carry, distinguishing, if necessary, the number to be carried in each part of the steamer, and any conditions and variations to which the number is subject.

275.—(1.) If the owner (*q*) of a steamer feels aggrieved by the declaration of survey (*r*) of a shipwright or engineer surveyor (*s*), or by the refusal of such a surveyor to give such a declaration, he may appeal to the court of survey (*t*) for the port or district where the steamer for the time being is, in manner directed by the rules of that court.

Appeal to
court of
survey.
39 & 40
Vict. c. 80,
s. 14.

(2.) On any such appeal the judge of the court of survey (*t*) shall report to the Board of Trade on the question raised by the appeal and the Board, when satisfied that the requirements of the report and of the foregoing provisions of this Part of this Act have been complied with, may grant a passenger steamer's certificate.

(3.) Subject to any order made by the judge of the court of survey (*u*) the costs of and incidental to the appeal shall follow the event.

(4.) A shipwright or engineer surveyor (*s*) in making a survey of a steamer for the purpose of a declaration of

(*m*) To the Mercantile Marine Fund; § 676, s. (e.).

(*n*) § 273, s. 1.

(*o*) Penalties for forging, &c., § 272.

(*p*) § 267.

(*q*) Note to § 58.

(*r*) § 285.

(*s*) § 724.

(*t*) § 487.

(*u*) § 487.

survey (*x*) shall, if the owner (*y*) of the steamer so requires, be accompanied on the survey by some person appointed by the owner, and in that case, if the surveyor and the person so appointed agree, there shall be no appeal under this section to the court of survey (*z*).]

Transmission of certificate. 1854, s. 313.

276.—(1.) The Board of Trade shall transmit the passenger steamer's certificate (*a*) in duplicate to a superintendent (*b*) or some other public officer at the port (*c*) mentioned by the owner (*y*) of the steamer for the purpose, or at the port (*c*) where the owner (*y*) or his agent resides, or where the steamer has been surveyed or is for the time lying.

(2.) The Board of Trade shall cause notice of the transmission to be given to the master (*c*) or owner (*y*) or his agent, and the officer to whom the certificate has been transmitted (*d*) shall, on the owner (*y*), master (*c*), or agent applying and paying the proper fee (*e*) and other sums (if any) mentioned in this Act as payable in that behalf (*f*), deliver to him both copies of the certificate.

(3.) In proving the issue of a passenger steamer's certificate (*a*) it shall be sufficient to show that the certificate was duly received by the said officer (*d*), and that due notice of the transmission was given to the owner (*y*), master (*c*), or agent.

Fees for certificate. 1854, s. 314.

277. The grantee of a passenger steamer's certificate (*a*) shall pay such fees, not exceeding those specified in Part One of the Ninth Schedule to this Act, as the Board of Trade fix (*g*).

Duration of certificates. 1854, s. 315. 1862, s. 34. 35 & 36 Vict. c. 73, s. 8.

278.—(1.) A passenger steamer's certificate (*a*) shall not be in force for more than one year from the date of its issue, or any shorter time specified in the certificate, nor after notice is given by the Board of Trade to the owner (*y*),

- (*x*) § 272.
- (*y*) Note to § 58.
- (*z*) § 487.
- (*a*) § 274.
- (*b*) §§ 247, 742.
- (*c*) Defined, § 712.

- (*d*) Sub-a. 1.
- (*e*) § 277.
- (*f*) § 273, s. 2.
- (*g*) To be paid into the Mercantile Marine Fund; § 676, s. 1 (*e*).

agent, or master (*h*) of the steamer, that the Board have cancelled it (*i*).

(2.) If a passenger steamer (*k*) is absent from the United Kingdom at the time when her certificate expires, a fine shall not be incurred for want of a certificate until she first begins to ply with passengers (*k*) after her next return to the United Kingdom.

279.—(1.) The Board of Trade may cancel a passenger steamer's certificate (*l*) where they have reason to believe—

Cancellation of certificate. 1854, s. 816.

- (a.) that any declaration of survey (*m*) on which the certificate was founded has been in any particular made fraudulently or erroneously; or,
- (b.) that the certificate (*l*) has been issued upon false or erroneous information; or,
- (c.) that since the making of the declaration (*m*), the hull, equipments, or machinery have sustained any injury, or are otherwise insufficient.

(2.) In every such case the Board of Trade may require the owner (*n*) to have the hull equipment or machinery of the steamer again surveyed, and to transmit further declarations of survey (*m*), before they re-issue the certificate (*l*) or grant a fresh one in lieu thereof.

280.—(1.) The Board of Trade may require a passenger steamer's certificate (*l*), which has expired (*o*) or been cancelled (*m*), to be delivered up as they direct.

Delivery up of certificate. 1854, s. 315.

(2.) If any owner (*n*) or master (*h*) fails (*p*) without reasonable cause to comply with such requirement, he shall for each offence be liable to a fine not exceeding ten pounds (*q*).

281.—(1.) The owner (*n*) or master (*h*) of every passenger steamer (*k*) required to have a passenger steamer's certificate (*r*) shall forthwith on the receipt of the certificate by him or his agent cause one of the duplicates (*l*) to be put

Posting up of certificate. 1854, ss. 317, 318.

- (*h*) Defined, § 742.
- (*i*) See § 279.
- (*k*) Defined, § 267.
- (*l*) § 274.
- (*m*) § 272.
- (*n*) Note to § 58.
- (*o*) § 278.

- (*p*) Includes refusal; § 742.
- (*q*) How recovered, §§ 680-684; how applicable, §§ 699, 716. § 356 does not apply to this section. The fine on the master can be recovered by him from the owner under § 359, s. 1.
- (*r*) § 271.

up in some conspicuous place on board the steamer, so as to be legible(*s*) to all persons on board, and to be kept so put up and legible while the certificate remains in force(*t*), and the steamer is in use.

(2.) If the owner(*u*) or master(*x*) fails(*y*) without reasonable cause to comply with this section, he shall for each offence be liable to a fine not exceeding ten pounds(*z*).

(3.) If a passenger steamer(*a*) plies(*b*) or goes to sea with passengers(*a*) on board, and this section is not complied with, then for each offence the owner(*u*) thereof shall be liable to a fine not exceeding one hundred pounds(*z*), and the master(*x*) shall also be liable to a further fine not exceeding twenty pounds(*z*).

Penalty
for forgery
of certi-
cate or
declara-
tion.
1854, s.
320.

282. If any person—

- (a.) knowingly and wilfully makes, or assists in making, or procures to be made, a false or fraudulent declaration of survey(*c*) or passenger steamer's certificate(*d*); or
- (b.) forges, assists in forging, procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any such declaration(*c*) or certificate(*d*), or anything contained in, or any signature to any such declaration(*c*) or certificate(*d*);

that person shall in respect of each offence be guilty of a misdemeanor(*z*).

Penalty
for carry-
ing pas-
sengers in
excess.
1854, s.
319.

283. The owner(*e*) or master(*x*) of any passenger steamer(*a*) shall not receive on board thereof, or on or in any part thereof, any number of passengers(*a*) which, having regard to the time, occasion, and circumstances of the case, is greater than the number allowed by the

- (a) The old section had "visible."
- (t) § 278.
- (u) Note to § 58.
- (x) Defined, § 742.
- (y) Includes refusal; § 742.
- (z) Procedure, §§ 680-684; fine how applicable, §§ 699, 716. § 356 does not apply to this section. Any fine on the master can be recovered by him from the owner under § 359,

- s. 1.
- (a) Defined, § 267.
- (b) See *Southport v. Morris* (1893), 1 Q. B. 359, and *Hedges v. Hooker*, (1889) 6 Asp. M. C. 386; also notes to §§ 267, 271.
- (c) § 272.
- (d) § 274.
- (e) § 58 and notes.

passenger steamer's certificate (*h*), and if he does so, he shall for each offence be liable to a fine not exceeding twenty pounds, and also to an additional fine not exceeding five shillings for every passenger (*i*) above the number so allowed, or if the fare of any passenger (*i*) on board exceeds five shillings, not exceeding double the amount of the fares of all the passengers (*i*) above the number so allowed, reckoned at the highest rate of fare payable by any passenger (*i*) on board (*k*).

284. Where the legislature (*l*) of any British possession (*m*) provides for the survey of, and grants of certificates for, passenger steamers (*i*), and the Board of Trade report to Her Majesty the Queen that they are satisfied that the certificates are to the like effect, and are granted after a like survey, and in such manner as to be equally efficient with the certificates granted for the same purpose in the United Kingdom under this Act (*h*), Her Majesty in Council (*n*) may—

- (1.) declare that the certificates granted in the said British possession (*m*) shall be of the same force as if granted under this Act (*h*); and
- (2.) declare that all or any of the provisions of this Part of this Act which relate to passenger steamer's certificates (*o*) shall, either without modification or with such modifications as to Her Majesty may seem necessary, apply to the certificates granted in the said British possession (*m*); and
- (3.) impose such conditions and make such regulations with respect to the certificates, and to the use, delivery, and cancellation thereof, as to Her Majesty may seem fit, and impose fines not exceeding fifty pounds for the breach of those conditions and regulations.

General Equipment of Passenger Steamers (i).

285.—(1.) A sea-going (*p*) passenger steamer (*i*) shall have

Equip-
ment of

(*h*) § 274.

(*i*) Defined, § 267.

(*k*) See note (*x*), p. 222.

(*l*) Int. Act, 1889, § 18, s. 7.

(*m*) Ibid. § 18, s. 2.

(*n*) See § 738.

(*o*) §§ 271-283.

(*p*) Sea-going = which actually goes to sea. *Salt Union v. Wood* (1893), 1 Q. B. 370.

passenger
steamers
with com-
passes,
hose, deck
shelters,
and safety
appli-
ances.
1854, s.
301.

her compasses properly adjusted from time to time, to the satisfaction of the shipwright surveyor (*q*) and according to such regulations as may be issued by the Board of Trade.

(2.) A sea-going(*r*) passenger steamer(*s*) shall be provided with a hose capable of being connected with the engines of the steamer, and adapted for extinguishing fire in any part of the steamer.

(3.) A home-trade(*t*) passenger steamer(*s*) shall be provided with such shelter for the protection of deck passengers (if any) as the Board of Trade, having regard to the nature of the passage, the number of deck passengers to be carried, the season of the year, the safety of the ship, and the circumstances of the case, require.

(4.) A passenger steamer(*s*) shall be provided with a safety valve on each boiler, so constructed as to be out of the control of the engineer when the steam is up, and, if the safety valve is in addition to the ordinary valve, so constructed as to have an area not less, and a pressure not greater, than the area of and pressure on the ordinary valve(*u*).

(5.) If a passenger steamer(*s*) plies or goes to sea from a port(*t*) in the United Kingdom without being equipped as required by this section, then, for each matter in which default is made, the owner(*x*) (if in fault(*y*)) shall be liable to a fine not exceeding one hundred pounds, and the master(*t*) (if in fault) shall be liable to a fine not exceeding fifty pounds(*z*).

Prohibi-
tion of
increasing
weight on
safety-
valve.
1854, s.
302.

286. A person shall not increase the weight on the safety valve of a passenger steamer(*s*) beyond the limits fixed by the surveyor(*a*), and, if he does so, he shall, in addition to any other liability he may incur by so doing, be liable for each offence to a fine not exceeding one hundred pounds(*z*).

(*q*) §§ 272, 724.

(*r*) See note (*p*), p. 223.

(*s*) Defined, § 267.

(*t*) Defined, § 742.

(*u*) Cf. §§ 286, 433.

(*z*) § 58 and notes.

(*y*) *Quære*, whether these words exclude the ultimate responsibility of the owner for the master under § 359.

(*x*) See note (*z*), p. 222.

(*a*) § 272, s. 4 (*d*).

Keeping Order in Passenger Steamers (b).

287 (c).—(1.) If any of the following offences is committed in the case of a passenger steamer (b) for which there is a passenger steamer's certificate in force (d); that is to say, Offences in connexion with passenger steamers. 1854, s. 324. 1862, ss. 35-37.

(a.) If any person being drunk or disorderly has been on that account refused admission thereto by the owner (e) or any person in his employment, and, after having the amount of his fare (if he has paid it) returned or tendered to him, nevertheless persists in attempting to enter the steamer:

(b.) If any person being drunk or disorderly on board the steamer is requested by the owner (e) or any person in his employ to leave the steamer at any place in the United Kingdom, at which he can conveniently do so, and, after having the amount of his fare (if he has paid it) returned or tendered to him, does not comply with the request:

(c.) If any person on board the steamer, after warning by the master (f) or other officer thereof, molests or continues to molest any passenger (b):

(d.) If any person, after having been refused admission to the steamer by the owner (e) or any person in his employ on account of the steamer being full, and

(b) Defined, § 267.

(c) Besides these provisions, the master would appear to have a general power of preventing breaches of the peace by putting reasonable restraint on any drunken or violent passenger whose conduct tended to cause such a breach, even though he knew his name and address, and so could not detain him under § 287, s. 3. There is an implied condition in the passenger's contract, that he will submit to do what is necessary for the security of the vessel if ordered by the captain; e.g. to fight with weapons he understands (*Boyce v. Baylife* (1807), 1 Camp. 58); to work at the pumps or ropes; *The Vrede* (1861), Lush. 322; *The Branston* (1826), 2 Hagg. Ad. 3 n., where salvage was refused to passengers thus assisting, on the ground that

they did only their duty; but not to do things requiring nautical skill, e.g. going up aloft (*Parsons on Shipping*, i. 638). A Court of Admiralty can award damages if the captain has exceeded his authority; *The Enchantress* (1825), 1 Hagg. Ad. 395; *The Ruckers* (1801), 4 C. Rob. 73. And a passenger may be arrested where he has incited to a mutiny, and that before a mutiny has broken out, but not for insolence to the captain personally. *Aldworth v. Stewart* (1866), 14 L. T. N. S. 862. For lesser misconduct a passenger may be excluded by the captain from the mess, and made to take his meals elsewhere. *Prendergast v. Compton* (1837), 8 C. & P. 451.

(d) § 278.

(e) Note to § 58.

(f) Defined, § 742.

having had the amount of his fare (if he has paid it) returned or tendered to him, nevertheless persists in attempting to enter the steamer :

- (e.) If any person having gone on board the steamer at any place, and being requested, on account of the steamer being full, by the owner (g) or any person in his employ to leave the steamer, before it has quitted that place, and having had the amount of his fare (if he has paid it) returned or tendered to him, does not comply with that request :
- (f.) If any person travels or attempts to travel in the steamer without first paying his fare, and with intent to avoid payment thereof :
- (g.) If any person, having paid his fare for a certain distance, knowingly and wilfully proceeds in the steamer beyond that distance without first paying the additional fare for the additional distance, and with intent to avoid payment thereof :
- (h.) If any person on arriving in the steamer at a point to which he has paid his fare knowingly and wilfully refuses or neglects to quit the steamer : and
- (i.) If any person on board the steamer fails, when requested by the master (h) or other officer thereof, either to pay his fare or exhibit such ticket or other receipt, if any, showing the payment of his fare, as is usually given to persons travelling by and paying their fare for the steamer :

the person so offending shall for each offence be liable to a fine not exceeding forty shillings (i), but that liability shall not prejudice the recovery of any fare payable by him.

(2.) If any person on board any such steamer (k) wilfully does or causes to be done anything in such a manner as to obstruct or injure any part of the machinery or tackle of the steamer, or to obstruct, impede, or molest the crew, or any of them, in the navigation or management of the steamer, or otherwise in the execution of their duty on or

(g) Note to § 58.

(h) Defined, § 742.

(i) Procedure, §§ 680-684; fine how

applicable, §§ 699, 716. § 356 does not apply to passenger steamers only.

(k) § 287, s. 1, preamble.

about the steamer, he shall for each offence be liable to a fine not exceeding twenty pounds (*l*).

(3.) The master(*m*) or other officer of any such steamer(*n*), and all persons called by him to his assistance, may, without any warrant, detain any person who commits any offence against this section and whose name and address are unknown to the master or officer, and convey the offender with all convenient despatch before some justice of the peace to be dealt with according to law, and that justice shall with all convenient despatch try the case in a summary manner (*o*).

(4.) If any person commits an offence against this section and on the application of the master(*m*) of the steamer, or any other person in the employ of the owner(*p*) thereof, refuses to give his name and address, or gives a false name or address, that person shall be liable to a fine not exceeding twenty pounds, and the fine shall be paid to the owner of the steamer(*q*).

288. The master (*m*) of any home-trade (*m*) passenger steamer(*r*) may refuse to receive on board thereof any person who by reason of drunkenness or otherwise is in such a state, or misconducts himself in such a manner, as to cause annoyance or injury to passengers (*r*) on board, and if any such person is on board, may put him on shore at any convenient place; and a person so refused admittance or put on shore shall not be entitled to the return of any fare he has paid.

Power to exclude drunken passengers on home-trade passenger steamers. 1854, s. 325.

3. EMIGRANT SHIPS (*s*).

Survey of Emigrant Ships (*t*).

289.—(1.) An emigrant ship (*t*), in respect of which a preliminary survey of passenger steamer's certificate (*u*) is not in force (*x*), shall not

(*l*) See note (*i*), p. 226.

(*m*) Defined, § 742.

(*n*) § 287, s. 1, preamble.

(*o*) Note (*c*), p. 225.

(*p*) Note to § 58.

(*q*) How recovered, §§ 680-684.

(*r*) Defined, § 267.

(*s*) As to distinction between

"emigrant ship" and "passenger steamer," and application of these sections, see Preliminary Note to this Part, and §§ 364-368.

(*t*) § 268, s. 1.

(*u*) § 274.

(*x*) § 278.

emigrant
ship.
1855, s. 19.
39 & 40
Vict. c. 80,
s. 18.

clear outwards or proceed to sea on any voyage unless she has been surveyed under the direction of the emigration officer (*z*) at the port of clearance, but at the expense of the owner (*a*) or charterer thereof, by two or more competent surveyors to be appointed at any port (*b*) in the British Islands (*c*) where there is an emigration officer (*z*) by the Board of Trade, and at other ports by the Commissioners of Customs, and has been reported by such surveyors to be in their opinion seaworthy and fit for her intended voyage.

(2.) The survey (*d*) shall be made before any portion of the cargo is taken on board, except so much as may be necessary for ballasting the ship, and such portion of cargo if laden on board shall be shifted, if required by the emigration officer (*z*) or the surveyors (*d*), so as to expose to view successively every part of the frame of the ship.

(3.) If any such surveyors (*d*) report that the ship is not seaworthy, or not fit for her intended voyage, the owner (*a*) or charterer may, if he thinks fit, by writing (*e*) under his hand require the emigration officer (*z*) to appoint three other competent surveyors (of whom two at least must be shipwrights) to survey the ship at the expense of the owner (*a*) or charterer, and the said officer (*z*) shall thereupon appoint such surveyors, and they shall survey the ship, and if by unanimous report under their hands (*f*), but not otherwise, they declare the ship to be seaworthy and fit for her intended voyage, the ship shall for the purposes of this Part of the Act be deemed seaworthy and fit for that voyage.

(4.) If any requirement of this section is not complied with in the case of any emigrant ship (*g*), the owner (*a*), charterer, or master (*b*) of the ship or any of them shall for each offence be liable to a fine not exceeding one hundred pounds (*h*).

(*z*) § 355.

(*a*) See note to § 58.

(*b*) Defined, § 742.

(*c*) Int. Act, 1889, § 18, s. 1.

(*d*) § 289, s. 1.

(*e*) See Int. Act, 1889, § 20.

(*f*) The three surveyors are the final Court of Appeal; all the sur-

voyors are protected by the Public Authorities Protection Act, 1893; see § 358.

(*g*) § 268, s. 1.

(*h*) As to recovery of this fine, see §§ 356, 357; ultimate liability of the owner, see § 359.

Equipments.

290.—(1.) Every emigrant ship (*i*) shall, in addition to any other requirement under this Act, be provided with the following articles, namely:—

- (*a*.) with at least three steering compasses, and one azimuth compass; and
- (*b*.) if proceeding to any place north of the Equator, with at least one chronometer; and
- (*c*.) if proceeding to any place south of the Equator, with at least two chronometers; and
- (*d*.) with a fire-engine in proper working order and of such description and power, and either with or without such other apparatus for extinguishing fire as the emigration officer may approve; and
- (*e*.) with three bower anchors of such weight and with cables of such length, size, and material, as in the judgment of the emigration officer (*k*) are sufficient for the size of the ship; and
- (*f*.) if a foreign ship (*l*), with four properly-fitted life-buoys kept ready at all times for immediate use; and
- (*g*.) adequate means, to be approved by the emigration officer (*k*) at the port of clearance (*m*), of making signals by night.

(2.) If any requirement of this section is not complied with in the case of any emigrant ship (*i*), the master (*n*) of that ship shall for each offence be liable to a fine not exceeding fifty pounds (*o*).

Number of, and Accommodation for, Passengers (p).

291.—(1.) A ship (*n*) shall not carry passengers (*p*), whether cabin or steerage passengers (*q*), on more than two decks, except that cabin passengers (*q*) not exceeding one for every hundred tons of the ship's registered tonnage, and sick persons placed in hospital as hereinafter pro-

Equip-
ment with
compasses
chronom-
eters,
fire-
engine,
anchors,
&c.
1855, s. 27.

Regula-
tions as to
carrying
of pas-
sengers
generally.
1855, s. 13.

(*j*) § 268, s. 1.

(*k*) § 355.

(*l*) The life-saving appliances to be carried by a British ship are determined by rules under § 427. As to foreign ships, see definition, § 268, s. 1.

(*m*) § 314.

(*n*) Defined, § 742.

(*o*) As to recovery of this fine, see §§ 356, 357; ultimate liability of the owner, see § 359.

(*p*) Defined, § 267.

(*q*) § 268, s. 3.

vided may be carried in a poop or deck house, although passengers (*r*) are carried on two other decks.

(2.) If steerage passengers (*s*) are carried under the poop, or in a round house, or deck house, the poop, round house, or deck house shall be properly built and secured to the satisfaction of the emigration officer (*t*) at the port of clearance (*u*).

(3.) If any requirement of this section is not complied with in the case of any ship (*x*), the master (*x*) of the ship shall for each offence be liable to a fine not exceeding five hundred pounds (*y*).

292.—(1.) The number of steerage passengers (*s*) carried in an emigrant ship (*a*) shall not exceed the number limited by the regulations in the Tenth Schedule to this Act.

Limit of number of steerage passengers to be carried on emigrant ships. 1855, s. 14.

(2.) If there is on board any emigrant ship (*a*) at or after the time of clearance (*u*) a greater number of steerage passengers (*s*) than the number so limited (except as increased by births at sea), the master (*x*) of the ship shall be liable to a fine not exceeding twenty pounds for each steerage passenger (*s*) constituting such excess (*y*).

293.—(1.) The regulations as to the accommodation for steerage passengers (*s*) in the Eleventh Schedule to this Act, relating to the construction of passenger decks, to berths, to hospitals, to privies, and to the supply of light and ventilation, shall be observed in the case of all emigrant ships (*a*) as if they were contained in this section.

Regulations as to accommodation of steerage passengers. 1855, ss. 23-26.

(2.) If any requirement of this section is not complied with in the case of any emigrant ship (*a*), the owner (*b*), charterer, or master (*x*) of the ship or any of them shall for each offence be liable to a fine not exceeding fifty pounds (*y*), except that the master shall alone be liable to the fine

(*r*) Defined, § 267.

(*s*) § 268, s. 3.

(*t*) § 355.

(*u*) § 314.

(*x*) Defined, § 742.

(*y*) As to recovery of this fine, see §§ 356, 357; ultimate liability of the owner, see § 359.

(*a*) § 268, s. 1.

(*b*) Note to § 58.

where he is in any such regulation expressed to be alone liable (*d*).

294.—(1.) No part of the cargo or of the steerage passengers' (*e*) luggage, or of the provisions, water, or stores, whether for the use of the steerage passengers (*e*) or of the crew (*f*), shall be carried on the upper deck or on the passenger decks (*g*), unless in the opinion of the emigration officer (*h*) at the port of clearance (*i*) the same is so placed as not to impede light or ventilation or to interfere with the comfort of the steerage passengers (*e*), nor unless the same is stowed and secured to the satisfaction of the emigration officer (*h*); and the space thereby occupied or rendered in the opinion of such officer unavailable for the accommodation of the steerage passengers (*e*), shall (unless occupied by the said steerage passengers' luggage) be deducted in calculating the space by which the number of steerage passengers is regulated (*k*).

Stowage
of goods.
1855, s. 29.

(2.) If any requirement of this section is not complied with in the case of any emigrant ship (*l*), the owner (*m*), charterer, or master or any of them shall for each offence be liable to a fine not exceeding three hundred pounds (*n*).

Provisions, Water, and Medical Stores.

295.—(1.) There shall be placed on board every emigrant ship (*l*), for the steerage passengers (*e*) provisions and water of good and wholesome quality and in sweet and good condition, and in quantities sufficient to secure throughout the voyage the issues required by this Part of this Act (*o*).

Supply of
provisions
and water.
1855, ss.
31, 32, 59.

(2.) In addition to the allowance of pure water for each steerage passenger (*e*), water shall be shipped for cooking

(*d*) This would exclude the ultimate liability of the owner under § 359.

(*e*) § 268, s. 3.

(*f*) See note to § 113.

(*g*) § 291, s. 1.

(*h*) § 355. The emigration officer has the protection of the Public Authorities Protection Act, 1893; see § 358. See as to his liability, *Steel*

v. Schomberg (1855), 4 E. & B. 620.

(*i*) § 314.

(*k*) § 292, s. 1.

(*l*) § 268, s. 1.

(*m*) Note to § 58.

(*n*) How recovered, see §§ 356, 357; as to ultimate liability of owner, see § 359.

(*o*) § 298 and Schedule XII.

purposes sufficient to supply ten gallons for every day of the length of the voyage as determined under this Part of this Act (*o*) for every one hundred statute adults (*p*) on board.

(3.) There shall also be shipped for the use of the crew (*q*) and all other persons on board (*r*) an ample amount of wholesome provisions and pure water, not inferior in quality to the provisions and water provided for the steerage passengers.

(4.) All such water and provisions shall be provided and stowed away by and at the expense of the owner (*s*), charterer, or master (*t*) of the ship.

(5.) If any emigrant ship (*u*) obtains a clearance (*x*) without being provided with the requisite quantities of water and provisions in accordance with this section (*y*), the owner (*s*), charterer, or master (*t*) of that ship or any of them shall for each offence be liable to a fine not exceeding three hundred pounds (*z*).

(6.) Before an emigrant ship (*u*) is cleared outwards (*x*), the emigration officer (*a*) at the port of clearance (*x*) shall survey or cause to be surveyed by some competent person the provisions and water by this Act required (*y*) to be placed on board for the steerage passengers (*b*), and shall satisfy himself that the same are of good and wholesome quality and in sweet and good condition, and in the quantities required by this Act (*c*).

(7.) If the emigration officer (*a*) considers that any part of the provisions or water is not of a good and wholesome quality, or is not in sweet and good condition, he may reject and mark the same, or the packages or vessels in which it is contained, and direct the same to be forthwith landed or emptied.

(8.) If the same are not forthwith landed or emptied, or

(*o*) § 269.

(*p*) § 268, s. 2.

(*q*) See note to § 113.

(*r*) See the case of a "nondescript" in *The Hanna* (1866), L. R. 1 A. & E. 283.

(*s*) Note to § 58.

(*t*) Defined, § 742.

(*u*) § 268, s. 1.

(*x*) § 314.

(*y*) § 295, s. 1.

(*z*) How recovered, see §§ 356, 357; as to ultimate liability of owner, see § 359.

(*a*) See note (*h*), p. 231.

(*b*) § 268, s. 3.

(*c*) § 298 and Schedule XII.

if after being landed the same or any part thereof are reshipped in the ship, the owner (*d*), charterer, or master (*e*) of the ship or any of them, or, if the same are shipped in any other emigrant ship (*f*), then the person (*g*) causing the same to be so shipped, shall for each offence be liable to a fine not exceeding one hundred pounds (*h*).

296.—(1.) The water to be placed on board emigrant ships (*f*) as herein-before provided (*i*) shall be carried in tanks or casks approved by the emigration officer (*k*) at the port of clearance (*l*), and the casks shall be sweet and tight, of sufficient strength, and if of wood properly charred inside, and the staves shall not be made of fir, pine, or soft wood, and each cask shall not be capable of containing more than three hundred gallons.

Mode of carrying water.
1855, s. 33.

(2.) If any requirement of this section is not complied with in the case of any emigrant ship (*f*), the owner (*m*), charterer, or master (*e*) of the ship, or any of them, shall for each offence be liable to a fine not exceeding fifty pounds (*h*).

297. If an emigrant ship (*f*) is intended to call at any intermediate port (*e*) during the voyage for the purpose of taking in water, and if an engagement to that effect is inserted in the master's bond herein-after mentioned (*n*), it shall be sufficient to place on board at the port of clearance (*l*) such supply of water as is required by this Part of this Act for the voyage to the intermediate port (*e*), subject to the following conditions; that is to say,

Provision for touching at intermediate ports to take in water.
1855, s. 34.

(i.) the emigration officer (*k*) at the port of clearance (*l*) shall approve in writing the arrangement, and the approval shall be carried among the ship's papers, and shall be exhibited at the intermediate port and

(*d*) Note to § 58.

(*e*) Defined, § 742.

(*f*) § 268, s. 1.

(*g*) Int. Act, 1889, §§ 2, 19.

(*h*) How recovered, see §§ 356, 357; as to ultimate liability of owner, see § 359.

(*i*) § 295, s. 1.

(*k*) § 355. He has the protection of the Public Authorities Protection Act; see § 358. See also *Steel v. Schomberg* (1855), 4 E. & B. 620.

(*l*) § 814. Cf. Customs Act, 1876.

(*m*) § 298 and Schedule XII.

(*n*) § 309.

delivered on the arrival of the ship at her final port (*q*) of discharge to the chief officer of customs (*q*), or British consular officer (*r*), as the case may be :

- (ii.) if the length of either portion of the voyage, whether to the intermediate port, or from the intermediate port to the final port of discharge, is not determined under this Part of this Act (*s*), the emigration officer (*t*) at the port of clearance (*u*) shall declare the same in writing as part of his said approval of the arrangement :
- (iii.) the ship shall have on board at the time of clearance (*u*) such tanks and water casks of the description by this Part of this Act required (*x*), as are sufficient for stowing the quantity of water required for the longest of the aforesaid portions of the voyage.

Issue of
water or
provisions
during
voyage.
1855, ss.
35-37.
1863, ss.
9, 10.

298.—(1.) The master (*q*) of every emigrant ship (*y*) shall during the voyage, including the time of detention at any place before the termination thereof, issue to each steerage passenger (*z*), or where the steerage passengers (*z*) are divided into messes, to the head man for the time being of each mess, on behalf and for the use of all the members thereof, an allowance of pure water, and sweet and wholesome provisions of good quality, in accordance with the dietary scales in the Twelfth Schedule to this Act, which shall have effect as if they were contained in this section.

(2.) The Board of Trade may, by notice published in the London Gazette, add to the dietary scales in the said schedule any dietary scale which in their opinion contains in the whole the same amount of wholesome nutriment as any scale in that schedule, and any dietary scale so added, inclusive of any regulations relating thereto, shall have effect as if they were contained in the said schedule as an alternative of the dietary scales therein contained, and accordingly a master (*q*) of a ship may issue provisions

(*q*) Defined, § 742.
(*r*) Int. Act, 1889, § 12, s. 20.
(*s*) § 269.
(*t*) See note (*k*), p. 233.

(*u*) § 314. Cf. Customs Act, 1876.
(*x*) § 296.
(*y*) § 268, s. 1.
(*z*) § 268, s. 3.

according to the latter scales or to any scale so added, whichever is mentioned in the contract ticket (*a*) of the steerage passengers (*b*).

(3.) If any requirement of this section is not complied with in the case of any emigrant ship (*c*) the master (*d*) of the ship shall for each offence be liable to a fine not exceeding fifty pounds (*e*).

299. The Board of Trade if satisfied that the food, space, accommodation, or any other particular or thing provided in an emigrant ship (*c*) for any class of passengers (*f*), whether cabin or steerage (*b*), is superior to the food, space, accommodation, or other particular or thing required by this Part of this Act, may exempt that ship from any requirement of this Part of this Act with respect to food, space, or accommodation, or other particular or thing, in such manner and upon such conditions as the Board think fit.

Power of Board of Trade to exempt ships. 39 & 40 Vict. c. 80, s. 20.

300.—(1.) The owner (*g*) or charterer of every emigrant ship (*c*) shall provide for the use of the steerage passengers (*b*) a supply of the following things (in this Part of this Act referred to as medical stores), namely, medicines, medical comforts, instruments, disinfectants, and other things proper and necessary for diseases and accidents incident to sea voyages and for the medical treatment of the steerage passengers (*b*) during the voyage, with written directions for the use of such medical stores.

Medical stores. 1855, ss. 43, 44.

(2.) The medical stores (*h*) shall, in the judgment of the emigration officer (*i*) at the port of clearance (*k*), be good in quality and sufficient in quantity for the probable exigencies of the intended voyage, and shall be properly packed, and placed under the charge of the medical practitioner, when there is one on board, to be used at his discretion.

(*a*) § 320.

(*b*) § 268, s. 3.

(*c*) § 268, s. 1.

(*d*) Defined, § 742.

(*e*) How recovered, §§ 356, 357; as to ultimate liability of owner, see § 359.

(*f*) § 267.

(*g*) Note to § 58.

(*h*) Sub-s. 1.

(*i*) See note (*k*), p. 233.

(*k*) § 314. Cf. Customs Act, 1876.

(3.) If any of the above requirements of this section is not complied with in the case of an emigrant ship (*l*), the master (*m*) of the ship shall for each offence be liable to a fine not exceeding fifty pounds (*n*).

(4.) An emigrant ship (*l*) shall not clear outwards (*o*) or proceed to sea unless a medical practitioner appointed by the emigration officer (*p*) at the port of clearance (*o*) has inspected the said medical stores (*q*), and certified to the emigration officer (*p*) that they are sufficient in quantity and quality (*r*), or unless the emigration officer (*p*), in case he cannot on any particular occasion obtain the attendance of a medical practitioner, gives written permission for the purpose (*s*).

(5.) If an emigrant ship (*l*) clears outwards or proceeds to sea without such certificate or permission, the master (*m*) of the ship shall for each offence be liable to a fine not exceeding one hundred pounds (*n*).

Dangerous Goods, and Carriage of Cattle.

Regulations as to carriage of dangerous goods, and of horses and cattle. 1855, s. 29. 1863, s. 8. 38 & 39 Vict. c. 17, s. 42.

301.—(1.) Subject to the provisions of this Part of this Act as to military stores (*t*), an emigrant ship (*l*) shall not clear outwards (*o*) or proceed to sea, if there is on board—

(a.) as cargo, any article which is an explosive within the meaning of the Explosives Act, 1875 (*u*), or any vitriol, lucifer matches, guano, or green hides; or

(b.) either as cargo or ballast, any article or number of articles which by reason of the nature, quantity (*x*),

(*l*) § 268, s. 1.

(*m*) Defined, § 742.

(*n*) How recovered, see §§ 356, 357; ultimate liability of owner, see § 359.

(*o*) § 314. Cf. Customs Act, 1876.

(*p*) See note (*y*), p. 237.

(*q*) § 1.

(*r*) § 298; Schedule XII.

(*s*) Thus the emigration officer may stop a ship as too deeply laden, though the surveyors have passed it as seaworthy; and an action against him will not lie without proof of malice. *Steel v. Schomberg* (1855), 4 E. & B. 620.

(*t*) § 302.

(*u*) Defined to mean "gunpowder,

nitro-glycerine, dynamite, gun-cotton, blasting powder, fulminate of mercury or other metals, coloured fires, and every other substance, whether similar to those above mentioned or not, used or manufactured with a view to produce a practical effect by explosion, or a pyrotechnic effect, and fog-signals, fireworks, fuses, rockets, percussion caps, detonators, cartridges, ammunition of all descriptions, and every adaptation of an explosive as above defined" (38 & 39 Vict. c. 17).

(*x*) Includes overloading. *Steel v. Schomberg* (1855), 4 E. & B. 620.

or mode of stowage thereof are, either singly or collectively, in the opinion of the emigration officer (*y*) at the port of clearance (*z*), likely to endanger the health or lives of the steerage passengers (*a*) or the safety of the ship; or

(*c*.) as cargo, horses or cattle or other animals mentioned in the Thirteenth Schedule to this Act, except they are carried on the conditions stated in that schedule, which shall have effect as if contained in this section.

(2.) If any requirement of this section is not complied with in the case of any ship (*b*), the owner (*c*), charterer, or master (*b*) of the ship or any of them, shall for each offence be liable to a fine not exceeding three hundred pounds (*d*).

302.—(1.) A Secretary of State (*e*) may, by order under his hand, authorise the carriage as cargo in any emigrant ship (*f*) (subject to such conditions and directions as may be specified in the order) of naval and military stores for the public service, and those stores may be carried accordingly.

Carriage of
military
stores.
33 & 34
Vict. c. 95.

(2.) The order shall be addressed to the emigration officer (*y*) and shall be by him countersigned, and delivered to the master (*b*) of the ship (*b*) to which it refers, and shall be delivered up by the master (*b*) to the chief officer of customs (*b*) at the port (*b*) where the stores are discharged.

(3.) The master (*b*) shall comply with all the conditions and directions in the order, and, if he fails (*g*) to do so, shall for each offence be liable to a fine not exceeding three hundred pounds (*d*).

Medical Officer, Staff, and Crew (h).

303.—(1.) Subject to any regulations made by Order in

(*y*) § 355. He has the protection of the Public Authorities Protection Act, 1893; see § 358. See also *Steel v. Schomberg* (1855), 4 E. & B. 620.

(*z*) § 314. Cf. Customs Act, 1876.

(*a*) § 268, s. 3.

(*b*) Defined, § 742.

(*c*) § 58 and note.

(*d*) How recovered, see §§ 356, 357; ultimate liability of owner, see § 359.

(*e*) Int. Act, 1889, § 12, s. 3.

(*f*) § 268, s. 1.

(*g*) Includes refusal; § 742.

(*h*) As to application, see Preliminary Note, and § 365, s. 2.

Medical
prac-
titioners.
1855, ss.
41, 42.

Council (*k*) under this Part of this Act, a duly authorised (*l*) medical practitioner shall be carried on board an emigrant ship (*m*)—

(*a.*) where the number of steerage passengers (*n*) on board exceeds fifty; and also

(*b.*) where the number of persons on board (including cabin passengers (*n*), officers, and crew (*o*)) exceeds three hundred.

(2.) A medical practitioner shall not be considered to be duly authorised for the purposes of this Act unless—

(*a.*) he is authorised by law to practise as a legally qualified medical practitioner in some part of Her Majesty's dominions, or, in the case of a foreign ship, in the country to which that ship belongs: and

(*b.*) his name has been notified to the emigration officer (*p*) at the port of clearance (*q*), and has not been objected to by him: and

(*c.*) he is provided with proper surgical instruments to the satisfaction of that officer (*p*).

(8.) When the majority of the steerage passengers (*n*) in any emigrant ship (*m*), or as many as three hundred of them, are foreigners, any medical practitioner whether authorised or not may, if approved by the emigration officer (*p*), be carried therein.

(4.) Where a medical practitioner is carried on board an emigrant ship (*m*) he shall be rated on the ship's articles (*r*).

(5.) If any requirement of this section is not complied with in the case of any emigrant ship (*m*), the master (*s*) of the ship shall for each offence be liable to a fine not exceeding one hundred pounds (*t*).

(6.) If any person proceeds or attempts to proceed as medical practitioner in any emigrant ship without being duly authorised (*l*), or contrary to the requirements of this

(*k*) § 738.

(*l*) Sub-a. 2.

(*m*) § 268, s. 1.

(*n*) § 268, s. 3.

(*o*) Note to § 113.

(*p*) See note (*a*), p. 229.

(*q*) § 314. Cf. Customs Act, 1876.

(*r*) § 113.

(*s*) Defined, § 742.

(*t*) How recovered, see §§ 356, 357; as to ultimate liability of owner, see § 359.

section, that person and any person aiding and abetting him shall for each offence be liable to a fine not exceeding one hundred pounds (*u*).

304.—(1.) Every emigrant ship (*x*), if carrying as many ^{Steerage} as one hundred ^{passen-} steerage passengers (*y*), shall carry a ^{gers'} steerage steward, who shall be a seafaring man, and rated ^{stewards,} in the ship's articles (*z*) as steerage steward, and approved ^{cooks, and} by the emigration officer (*a*) at the port of clearance (*b*): ^{inter-} he shall be employed in messing and serving out the pro- ^{preters.} visions to the steerage passengers (*y*), and in assisting to ^{1855, ss.} maintain cleanliness, order, and good discipline among ^{38-40.} them, and shall not assist in any way in navigating or working the ship.

(2.) Every emigrant ship (*x*) carrying as many as one hundred steerage passengers (*y*) shall also carry a steerage cook, and if carrying more than three hundred statute adults (*c*) two steerage cooks, who shall be seafaring men, and be rated and approved as in the case of steerage stewards (*d*), and shall be employed in cooking the food of the steerage passengers (*y*).

(3.) In every such ship a convenient place for cooking shall be set apart on deck, and a sufficient cooking apparatus, properly covered in and arranged, shall be provided, to the satisfaction of the emigration officer (*a*) at the port of clearance (*b*), together with a proper supply of fuel adequate, in his opinion, for the intended voyage.

(4.) Every foreign emigrant ship (*x*) in which as many as one-half of the steerage passengers (*y*) are British subjects, shall, unless the master (*e*) and officers or not less than three of them understand and speak intelligibly the English language, carry, if the number of steerage passengers (*y*) does not exceed two hundred and fifty, one person, and if

(*u*) How recovered, see §§ 356, 357; as to ultimate liability of owner, see § 359.

(*x*) § 268, s. 1.

(*y*) § 268, s. 3.

(*z*) § 113.

(*a*) § 355. He has the protection

of the Public Authorities Protection Act, 1893; see § 358.

(*b*) § 314. Cf. Customs Act, 1876.

(*c*) § 268, s. 2.

(*d*) Sub-s. 1.

(*e*) Defined, § 742.

it exceeds two hundred and fifty, two persons, who understand and speak intelligibly the language spoken by the master (*f*) and crew and also the English language: those persons shall act as interpreters, and be employed exclusively in attendance on the steerage passengers (*g*), and not in working the ship; and any such ship shall not clear outwards or proceed to sea without having such interpreter on board.

(5.) If any requirement of this section is not complied with in the case of any emigrant ship (*h*), the master (*f*) of the ship shall for each offence be liable to a fine not exceeding fifty pounds (*i*).

Crew of
emigrant
ship.
1855, s. 28.

305.—(1.) Every emigrant ship (*h*) shall be manned with an efficient crew (*k*) for her intended voyage, to the satisfaction of the emigration officer (*l*) from whom a certificate for clearance for such ship is demanded (*m*): after the crew (*k*) have been passed by the emigration officer (*l*), the strength of the crew (*k*) shall not be diminished nor any of the men changed without the consent in writing either of that emigration officer (*l*) or of the superintendent (*n*) at the port of clearance (*m*).

(2.) Where the consent of a superintendent (*n*) has been obtained, it shall, within twenty-four hours thereafter, be lodged with the said emigration officer (*l*).

(3.) If the emigration officer (*l*) considers the crew (*h*) inefficient, the owner (*o*) or charterer of the ship may appeal in writing to the Board of Trade, and the Board shall, at the expense of the appellant, appoint two other emigration officers (*l*) or two competent persons to examine into the matter, and the unanimous opinion of the persons so appointed, expressed under their hands, shall be conclusive on the point.

(4.) If any requirement of this section is not complied with in the case of any emigrant ship (*h*), the master (*f*)

(*f*) Defined, § 742.

(*g*) § 268, s. 3.

(*h*) § 268, s. 1.

(*i*) Procedure, §§ 356, 357; as to ultimate liability of owner, see § 359.

(*k*) Cf. note to § 113.

(*l*) See note (*a*), p. 239.

(*m*) § 314. Cf. Customs Act, 1876.

(*n*) §§ 247, 742

(*o*) Note to § 58.

of that ship shall for each offence be liable to a fine not exceeding fifty pounds (*p*).

Medical Inspection.

306.—(1.) An emigrant ship (*q*) shall not clear outwards Medical inspection of steerage passengers and crew. 1855, s. 44. 36 & 37 Vict. c. 85, s. 30, sch. 3.
or proceed to sea until—

(*a*.) either a medical practitioner, appointed by the emigration officer (*r*) at the port of clearance (*s*), has inspected all the steerage passengers (*t*) and crew (*u*) about to proceed in the ship, and has certified to the emigration officer (*r*), and that officer is satisfied, that none of the steerage passengers (*t*) or crew (*u*) appear to be by reason of any bodily or mental disease unfit to proceed, or likely to endanger the health or safety of the other persons about to proceed in the ship; or

(*b*.) the emigration officer (*r*), if he cannot on any particular occasion obtain the attendance of a medical practitioner, grants written permission for the purpose.

(2.) The inspection shall take place either on board the ship, or, in the discretion of the emigration officer (*r*), at such convenient place on shore before embarkation, as he appoints, and the master (*x*), owner (*y*), or charterer of the ship shall pay to the emigration officer (*r*) in respect of the inspection such fee not exceeding twenty shillings for every hundred persons or fraction of a hundred persons inspected, as the Board of Trade determine (*z*).

(3.) If this section is not complied with in the case of any emigrant ship (*q*), the master (*x*) of the ship shall for each offence be liable to a fine not exceeding one hundred pounds (*p*).

307.—(1.) If the emigration officer (*r*) is satisfied that any Relanding of persons for medical reasons. 1855, ss. 45, 47.
person on board or about to proceed in any emigrant ship (*q*) is by reason of sickness unfit to proceed, or is for that or

(*p*) Procedure, §§ 356, 357; as to ultimate liability of owner, see § 359.

(*q*) § 268, s. 1.

(*r*) § 355. He has the protection of the Public Authorities Protection Act, 1893; see § 358.

(*s*) § 314. Cf. Customs Act, 1876.

(*t*) § 268, s. 3.

(*u*) Cf. note to § 113.

(*x*) Defined, § 742.

(*y*) Note to § 58.

(*z*) § 716.

any other reason in a condition likely to endanger the health or safety of the other persons on board, the emigration officer (*a*) shall prohibit the embarkation of that person, or, if he is embarked, shall require him to be relanded; and if the emigration officer is satisfied that it is necessary for the purification of the ship or otherwise that all or any of the persons on board should be relanded, he may require the master (*b*) of the ship to reland all those persons, and the master (*b*) shall thereupon reland those persons, with so much of their effects and with such members of their families as cannot in the judgment of such emigration officer (*a*) be properly separated from them.

(2.) If any requirement of this section is not complied with in the case of any emigrant ship (*c*), the master (*b*), owner (*d*), or charterer of the ship, or any of them, shall for each offence be liable to a fine not exceeding two hundred pounds (*e*).

(3.) If any person embarks when so prohibited to embark, or fails (*f*) without reasonable cause to leave the ship when so required to be relanded, that person may be summarily removed, and shall be liable to a fine not exceeding forty shillings for each day during which he remains on board after the prohibition or requirement (*e*).

(4.) Upon such relanding the master (*b*) of the ship shall pay to each steerage passenger (*g*) so relanded, or, if he is lodged and maintained in any hulk or establishment under the superintendence of the Board of Trade, then to the emigration officer (*a*) at the port (*b*), subsistence money at the rate of one shilling and sixpence a day for each statute adult (*h*) until he has been re-embarked or declines or neglects to proceed, or until his passage money, if recoverable under this Part of this Act (*i*), has been returned to him.

Return of
passage

308. When a person has been relanded from an emigrant

(*a*) § 355. He has the protection of the Public Authorities Protection Act, 1893; see § 358.

(*b*) Defined, § 742.

(*c*) § 268, s. 1.

(*d*) Note to § 58.

(*e*) Procedure, §§ 356, 357; ultimate liability of owner, see § 359.

(*f*) Includes refusal; § 742.

(*g*) § 268, s. 3.

(*h*) § 268, s. 2.

(*i*) §§ 308, 328.

ship (*k*) on account of the sickness of himself or of any member of his family, and is not re-embarked or does not finally sail in that ship, he, or any emigration officer (*l*) on his behalf, shall be entitled, on delivery up of his contract ticket (*m*), and notwithstanding that the ship has not sailed; to recover summarily, in the case of a steerage passenger (*n*) the whole, and in the case of a cabin passenger (*n*) one half, of the money paid by or on account of the passenger and of the members of his family re-landed, from the person to whom the same was paid, or from the owner (*o*), charterer, or master (*p*) of the ship, or any of them, at the option of the person recovering the same (*q*).

money to persons re-landed for medical reasons.
1855, s. 46.
1863, s. 11.

Master's Bond.

309.—(1.) Before an emigrant ship (*k*) clears outwards (*r*) or proceeds to sea, the master (*p*), together with the owner (*o*) or charterer, or in the event of the owner (*o*) or charterer being absent or being the master (*p*), one other good and sufficient person approved by the chief officer of customs (*p*) at the port of clearance (*r*), shall enter into a joint and several bond (in this Act referred to as the master's bond (*s*)) in the sum of two thousand pounds, to the Crown.

Bond to be given by master of emigrant ship.
1855, s. 63.
1863, s. 17.

(2.) The bond shall be executed in duplicate, and shall not be liable to stamp duty.

(3.) Where neither the owner (*o*) nor the charterer of an emigrant ship (*k*) resides in the British Islands (*t*), the bond shall be for the sum of five thousand instead of two thousand pounds, and shall contain an additional condition for the payment to the Crown, as a Crown debt (*u*), of all expenses incurred under this Act (*x*) in rescuing, maintaining, and forwarding to their destination, any steerage passengers (*n*) carried in the ship who by reason of shipwreck

- (*k*) § 281, s. 1.
- (*l*) § 355. He has the protection of the Public Authorities Protection Act, 1893; see § 358.
- (*m*) § 320.
- (*n*) § 268, s. 3.
- (*o*) Note to § 58.
- (*p*) Defined, § 742.
- (*q*) Procedure, §§ 356, 357; ulti-

- mate liability of owner, see § 359.
- (*r*) § 314. Cf. Customs Act, 1876.
- (*s*) For form of bond, see Schedule XIV., and § 360.
- (*t*) Int. Act, 1889, § 18, s. 1.
- (*u*) See Index to Statutes, title, "Crown Debt."
- (*x*) §§ 331-334.

or any other cause, except their own neglect or default, are not conveyed by or on behalf of the owner (*y*), charterer, or master (*z*) of the ship to their intended destination.

Evidence of bond. 1855, s. 64. **310.**—(1.) Where an emigrant ship (*a*) is bound to a British possession (*b*) the chief officer of customs (*z*) at the port of clearance (*c*) shall certify on one part of the master's bond (*d*) that it has been duly executed by the master (*z*) of the ship and the other person bound, and shall forward the same to the governor (*e*) of the said possession (*b*) or to such person as the governor may appoint for that purpose.

(2.) The certificate (*f*) shall, in any court of a British possession (*b*) in which the bond (*d*) may be put in suit, be conclusive evidence of the due execution of the bond (*d*) by the master (*z*) and the other person bound, and it shall not be necessary to prove the handwriting of the officer of customs who signed the certificate (*f*), nor that he was at the time of signing it chief officer of customs (*z*) at the port of clearance (*c*).

(3.) Any such bond (*d*) shall not be put in suit in a British possession (*b*) after the expiration of three months next after the arrival of the ship in that possession, nor in the British Islands (*g*) after the expiration of twelve months next after the return of the ship and of the master (*z*) to the British Islands (*g*).

Passengers' Lists.

Passengers' lists. 1855, s. 16. 1863, s. 6. **311.**—(1.) The master (*z*) of every ship (*z*) carrying steerage passengers (*h*) on a voyage from the British Islands (*g*) to any port (*z*) out of Europe and not within the Mediterranean Sea, or on a colonial voyage as herein-before defined (*i*), shall, before demanding a clearance for his ship (*k*), sign in duplicate a passengers' list (*l*), that is to say

(*y*) Note to § 58.

(*z*) Defined, § 742.

(*a*) § 268, s. 1.

(*b*) Int. Act, 1889, § 18, s. 2.

(*c*) § 314. Cf. Customs Act, 1876.

(*d*) § 309, s. 1.

(*e*) Int. Act, 1889, § 18, s. 6.

(*f*) Sub-s. 1.

(*g*) Int. Act, 1889, § 18, s. 1.

(*h*) § 268, s. 3.

(*i*) § 270.

(*k*) § 314. See Customs Consolidation Act, 1876, 39 & 40 Vict. c. 76, §§ 101, 113, 127-132.

(*l*) For form of list, see Schedule XIV., and § 360.

a list correctly setting forth the name and other particulars of the ship and of every passenger, whether cabin or steerage (*m*), on board thereof.

(2.) The passengers' list (*n*) shall be countersigned by the emigration officer (*o*) if there is one at the port (*p*), and then delivered by the master (*p*) to the officer of customs from whom a clearance is demanded (*q*), and that officer shall thereupon countersign and return to the master one duplicate (in this Part of this Act referred to as the "master's list"), and shall retain the other duplicate.

(3.) If any requirement of this section to be observed by the master (*p*) is not complied with in the case of any ship (*n*) or any passengers' list (*n*) is wilfully false, the master (*p*) of the ship shall for each offence be liable to a fine not exceeding one hundred pounds (*r*).

312.—(1.) If at any time after the passengers' list (*n*) has been signed and delivered as aforesaid any additional passenger (*s*) (whether cabin or steerage (*m*)) is taken on board, the master shall add to the master's list (*t*), and also enter on a separate list signed by him the names and other particulars of every such additional passenger (*s*).

Lists of passengers embarked after clearance. 1855, s. 17. 1863, s. 6.

(2.) The separate list (*u*) shall be countersigned by the emigration officer (*o*), where there is one at the port, and shall, together with the master's list (*t*) to which the addition has been made, be delivered to the chief officer of customs (*p*) at the port, who shall thereupon countersign the master's list (*t*), and return the same to the master (*p*), and shall retain the separate list (*u*), and so on in like manner whenever any additional passenger (*s*) is taken on board.

(3.) If there is no officer of customs stationed at the port where an additional passenger (*s*) is taken on board, the said lists shall be delivered to the officer of customs

(*m*) § 268, s. 3.

(*n*) § 311, s. 1.

(*o*) § 355. He is protected by the Public Authorities Protection Act, 1893; see § 358. See also *Steel v. Schomberg* (1855), 4 E. & B. 260.

(*p*) Defined, § 742.

(*q*) See note (*k*), p. 244.

(*r*) Proceduro, §§ 356, 357; ultimate liability of owner, § 359.

(*s*) § 267.

(*t*) § 311, s. 2.

(*u*) Sub-s. 1.

at the next port (*x*) having such an officer at which the vessel arrives, to be dealt with as herein-before mentioned (*y*).

(4.) When any additional passenger (*z*) is taken on board the master (*x*) shall, before the ship proceeds to sea, obtain a fresh certificate from the emigration officer (*a*) of the port (*x*) that all the requirements of this Part of this Act have been complied with (*b*).

(5.) If any requirement of this section is not complied with in the case of any ship (*c*), the master (*x*) of that ship shall for each offence be liable to a fine not exceeding fifty pounds (*d*).

Attempt
to gain
passage
without
payment.
1855, s. 18.
1863, s. 7.

313.—(1.) If a person is found on board an emigrant ship (*e*) with intent to obtain a passage therein without the consent of the owner (*f*), charterer, or master (*x*) thereof, he and any person aiding and abetting him, shall be liable to a fine not exceeding twenty pounds, and in default of payment to imprisonment for a period not exceeding three months, with or without hard labour (*g*).

(2.) Any person so found on board may, without warrant, be taken before a justice of the peace to be dealt with according to law, and that justice may try the case in a summary manner.

Certificate for Clearance.

Certificate
for clear-
ance.
1855, s. 11.

314.—(1.) A ship fitted or intended for the carriage of steerage passengers (*h*) as an emigrant ship (*e*) shall not clear outwards (*i*) or proceed to sea until the master (*x*) has obtained from the emigration officer (*a*) at the port of clearance (*i*) a certificate for clearance, that is to say a certificate that all the requirements of this Part of this Act, so far as the same can be complied with before the departure of the ship (*k*), have been duly complied with,

(*x*) Defined, § 742.

(*y*) Sub-s. 2.

(*z*) § 267.

(*a*) See note (*q*), p. 247.

(*h*) § 314.

(*c*) § 311, s. 1.

(*d*) Procedure, §§ 356, 357; ulti-

mate liability of owner, § 359.

(*e*) § 268, s. 1.

(*f*) Note to § 58.

(*g*) Procedure, see sub-s. 2.

(*h*) § 268, s. 3.

(*i*) See note (*k*), p. 244.

(*k*) See § 312, s. 4.

and that the ship is in his opinion seaworthy (*l*), in safe trim, and in all respects fit for her intended voyage (*m*), and that the steerage passengers (*n*) and crew (*o*) are in a fit state to proceed, and that the master's bond has been duly executed (*p*).

(2.) If the emigration officer (*q*) refuses to grant such certificate, the owner (*r*) or charterer of the ship may appeal in writing to the Board of Trade, and that Board shall thereupon appoint any two other emigration officers (*q*) or any two competent persons to examine into the matter at the expense of the appellant, and if the officers or persons so appointed grant the master (*s*) of the ship under their joint hands a certificate to the same purport as the certificate for clearance, it shall be of the same effect as a certificate for clearance (*t*).

315.—(1.) The master (*s*) of every ship, whether an emigrant ship (*u*) or not, which is fitting or intended for the carriage of steerage passengers (*x*), or which carries steerage passengers (*x*) on a voyage from the British Islands (*y*) to any port (*s*) out of Europe and not within the Mediterranean Sea, or on a colonial voyage as herein-before defined (*z*), shall afford to the emigration officer (*q*) at any port (*s*) in Her Majesty's dominions, and, in the case of British ships (*a*), to the British consular officer (*b*) at any port (*s*) elsewhere at which the ship is or arrives, every facility for inspecting the ship, and for communicating with the steerage passengers (*x*) and for ascertaining that this Part of this Act, so far as applicable to the ship, has been duly complied with.

Facilities to be given for the inspection of ships. 1855, s. 10.

(2.) If the master (*s*) of any ship (*s*) fails (*c*) to comply

- (*l*) § 289.
- (*m*) §§ 290-300.
- (*n*) §§ 306-308.
- (*o*) § 307.
- (*p*) § 309.
- (*q*) § 355. He is protected by the Public Authorities Protection Act, 1893; see § 358.
- (*r*) Note to § 58.

- (*s*) Defined, § 742.
- (*t*) Sub-s. 1.
- (*u*) § 268, s. 1.
- (*x*) § 268, s. 3.
- (*y*) Int. Act, 1889, § 18, s. 1.
- (*z*) § 270.
- (*a*) Note to § 1.
- (*b*) Int. Act, 1889, § 12, s. 20.
- (*c*) Includes refusal; § 742.

with this section, he shall for each offence be liable to a fine not exceeding fifty pounds (*e*).

Ships
putting
back to
replenish
provisions,
&c.
1855, s. 50.

316.—(1.) If any emigrant ship (*f*), after clearance (*g*), is detained in port for more than seven days, or puts into or touches at any port (*h*) in the British Islands (*i*), she shall not proceed to sea again until—

- (a.) there has been laden on board, at the expense of the owner (*k*), charterer, or master (*h*) of the ship, such further supply of pure water (*l*), wholesome provisions of the requisite kinds and qualities (*l*), and medical stores (*m*), as is necessary to make up the full quantities of those articles required under this Part of this Act to be laden on board for the intended voyage (*n*); and
- (b.) any damage which the ship has sustained has been effectually repaired; and
- (c.) the master (*h*) of the ship has obtained from the emigration officer (*o*) a certificate for clearance to the same effect as the certificate for clearance at her port of departure (*g*).

(2.) If any requirement of this section is not complied with in the case of any emigrant ship (*f*), the master (*h*) shall for each offence be liable to a fine not exceeding one hundred pounds (*e*).

Emigrant
ships
putting
back to be
reported to
emigration
officer.
1855, s. 50.

317.—(1.) If any emigrant ship (*f*), after clearance (*g*), puts into or touches at any port (*h*) in the British Islands (*i*), the master (*h*) shall, within twelve hours thereafter, report in writing his arrival, and the cause of his putting back, and the condition of his ship and of her provisions, water, and medical stores to the emigration officer (*o*) at the port, and shall produce to that officer the master's list of passengers (*p*).

(2.) If the master (*h*) of an emigrant ship (*f*) fails (*q*) to

(*e*) Procedure §§ 356, 357; ultimate liability of owner, § 359.

(*f*) § 268, s. 1.

(*g*) § 314. See Customs Act, 1876.

(*h*) Defined, § 742.

(*i*) Int. Act, 1889, § 18, s. 1.

(*k*) Note to § 58.

(*l*) § 295.

(*m*) § 300.

(*n*) Schedule XII.

(*o*) § 355. He is protected by the Public Authorities Protection Act, 1893; see § 358.

(*p*) § 311, s. 2.

(*q*) Includes refusal; § 742.

comply with this section, he shall for each offence be liable to a fine not exceeding twenty pounds (*r*).

318.—(1.) If the owner (*s*) of an emigrant ship (*t*) is aggrieved by the refusal by an emigration officer (*u*) of a certificate for clearance (*x*), he may appeal to a court of survey (*y*) for the port (*z*) or district where the ship for the time being is in manner directed by the rules of that court.

Appeal to Court of Survey.
39 & 40
Vict. c. 80,
s. 14.

(2.) The judge of the court of survey (*y*) shall report to the Board of Trade on the question raised by the appeal, and that Board, if satisfied that the requirements of the report and of this Part of this Act have been complied with, may grant or direct the emigration officer (*u*) to grant a certificate for clearance (*x*).

(3.) Subject to any order made by the judge of the court of survey (*y*), the costs of and incidental to the appeal shall follow the event.

(4.) Where a survey of a ship is made for the purpose of a certificate for clearance (*x*), the person so appointed to make the survey shall, if so required by the owner, be accompanied on the survey by some person appointed by the owner, and in such case if the said two persons agree there shall be no appeal to the court of survey (*y*) in pursuance of this section.

319.—(1.) If any emigrant ship (*t*)—

(a.) proceeds to sea without the master having obtained the certificate for clearance (*x*); or

(b.) having proceeded to sea, puts into any port (*z*) in the British Islands (*a*) in a damaged state, and leaves or attempts to leave that port with steerage passengers (*b*) on board without the master (*z*) having obtained the proper certificate for clearance (*x*);

Forfeiture of ship proceeding to sea without certificate for clearance.
1863, s. 13.
35 & 36
Vict. c. 73,
s. 7.

that ship shall be forfeited to the Crown, and may be seized by any officer of customs if found within two years

(*r*) Procedure, §§ 356, 357; ultimate liability of owner, § 359.

1893; see § 358.

(a) Note to § 58.

(x) § 314. See Customs Act, 1876.

(t) § 268, s. 1.

(y) § 487.

(u) § 355. He is protected by the Public Authorities Protection Act,

(z) Defined, § 742.

(a) Int. Act, 1889, § 18, s. 1.

(b) § 268, s. 3.

from the commission of the offence in any port (*c*) in Her Majesty's dominions, and shall thereupon be dealt with as if she had been seized as forfeited under the laws relating to the customs (*d*).

(2.) The Board of Trade may release, if they think fit, any such forfeited ship, on payment, to the use of the Crown, of such sum not exceeding two thousand pounds as the Board specify.

Passengers' Contracts (e).

Contract
tickets for
passen-
gers.
1855, s. 71.

320.—(1.) If any person (*f*), except the Board of Trade and persons acting for them and under their direct authority, receives money from any person for or in respect of a passage as a steerage passenger (*g*) in any ship (*c*), or of a passage as a cabin passenger (*g*) in any emigrant ship (*h*) proceeding from the British Islands (*i*) to any port (*c*) out of Europe and not within the Mediterranean Sea, he shall give to the person paying the same a contract ticket signed by or on behalf of the owner (*k*), charterer, or master (*c*) of the ship, and printed in plain and legible characters.

(2.) The contract ticket (*l*) shall be in a form approved by the Board of Trade and published in the London Gazette (*m*), and any directions contained in that form of contract ticket not being inconsistent with this Act shall be obeyed as if set forth in this section.

(3.) If any person (*f*) fails (*n*) to comply with any

(c) Defined, § 742.

(d) § 76 of this Act does not apply. The forfeiture proceeds under 39 & 40 Vict. c. 76, ss. 255-258.

(e) As to application, see Preliminary Note to this Part, and § 365. Ships not carrying steerage passengers, such as the P. and O. Co., have not to use this contract ticket; nor need it be issued to cabin passengers, in ships not carrying a certain proportion of steerage passengers. Cf. § 268, s. 1.

(f) Includes corporations; Int. Act, 1889, §§ 2, 19.

(g) § 268, s. 3.

(h) § 268, s. 1.

(i) Int. Act, 1889, § 18, s. 1.

(k) Note to § 58.

(l) § 320, s. 1.

(m) This prevents the ship-owner from varying the provisions of the ticket by exceptions; the form of ticket contains an absolute contract to carry and land; *semble*, however, that as this obligation is imposed by law, the ship-owner, if relieved by the act of God or *force majeure*, as Government prohibition in a foreign port, will be relieved under the first branch of the rule in *Paradine v. Jane* (1647), Aleyn, 26. As to the London Gazette, see § 740. For form of ticket, see App. XIV.

(n) Includes refusal; § 742.

requirement of this section, he shall for each offence be liable to a fine not exceeding fifty pounds (*o*).

(4.) Contract tickets (*p*) under this section shall not be liable to stamp duty.

321.—(1.) Any question which arises respecting the breach or non-performance of any stipulation in any such contract ticket (*p*) may, at the option of any passenger (*q*) interested, whether a steerage or a cabin passenger (*r*), be tried before a court of summary jurisdiction (*s*), and the court may award to the complainant such damages and costs as they think just, not exceeding the amount of the passage money specified in the contract ticket (*p*) and twenty pounds in addition.

Summary remedy for breach of contract. 1855, s. 73.

(2.) But if a passenger (*q*) has obtained compensation or redress under any other provision of this Act (*t*), he shall not be entitled to recover damages under this section in respect of the same matter.

322. If a passenger (*q*) whether a steerage or a cabin passenger (*r*) fails (*u*), without reasonable cause, on demand of any emigration officer (*x*), to produce his contract ticket (*p*), and if any owner (*y*), charterer, or master (*z*) of a ship, on like demand, fails without reasonable cause to produce for the inspection of such emigration officer (*x*) and for the purposes of this Act the counterpart of any contract ticket (*p*) issued by him or on his behalf, the passenger (*q*), owner (*y*), charterer, or master (*z*), as the case may be, shall for each offence be liable to a fine not exceeding ten pounds (*o*).

Penalty for failure to produce contract ticket. 1855, s. 74.

323. If any person, after the issue of a contract ticket (*p*) and during the continuance of the contract of which that ticket is evidence, alters that ticket, or induces any person to part with it, or renders useless, or destroys it, he

Penalty for altering, or inducing any one to part with, contract ticket. 1855, s. 72.

(*o*) Procedure, §§ 356, 357; ultimate liability of owner, § 359.

357 of this Act.

(*p*) § 320, s. 1.

(*t*) e.g. §§ 328, 331.

(*q*) § 267.

(*u*) Includes refusal; § 742.

(*r*) § 268, s. 3.

(*x*) § 355.

(*s*) Int. Act, 1889, § 13, and §

(*y*) Note to § 58.

(*z*) Defined, § 742.

shall (except it is the contract ticket *(a)* of a cabin passenger *(b)* who consents) for each offence be liable to a fine not exceeding twenty pounds *(c)*.

Regulations as to Steerage Passengers (b).

Sanitary
and other
regula-
tions by
Order in
Council.
1855, s. 59.

324. Her Majesty may by Order in Council *(d)* make regulations—

- (i.) for preserving order, promoting health, and securing cleanliness and ventilation on board emigrant ships *(e)* proceeding from the British Islands *(f)* to any port *(g)* in a British possession *(h)*; and
- (ii.) for prohibiting emigration from any port *(g)* at any time when choleraic or any epidemic disease is generally prevalent in the British Islands *(f)* or any part thereof; and
- (iii.) for reducing the number of steerage passengers *(b)* allowed to be carried in any emigrant ship *(e)*, either generally or from any particular ports *(g)* in the British Islands *(f)*; and
- (iv.) for permitting the use on board emigrant ships *(e)* of apparatus for distilling water and for defining in such case the quantity of fresh water to be carried in tanks and casks for the steerage passengers *(b)* under the foregoing provisions of this Part of this Act *(i)*; and
- (v.) for requiring duly authorised medical practitioners *(k)* to be carried in emigrant ships where they would not otherwise under this Part of this Act be required to be carried *(k)*.

Discipline
on board.
1855, s. 60.

325.—(1.) In every emigrant ship *(e)* the medical practitioner *(k)* aided by the master *(g)* or, in the absence of the medical practitioner, the master *(g)*, shall exact obedience to all regulations made by any such Order in Council as aforesaid *(l)*.

(a) § 320, s. 1.

(b) § 268, s. 3.

(c) Procedure, §§ 356, 357; ultimate liability of owner, § 359.

(d) § 73⁸.

(e) § 268, s. 1.

(f) Int. Act, 1889, § 18, s. 1.

(g) Defined, § 742.

(h) Int. Act, 1889, § 18, s. 2.

(i) § 296.

(k) § 303.

(l) § 324.

(2.) If any person on board—

(a.) fails (*m*) without reasonable cause to obey, or offends against, any such regulation (*n*) or any provision of this Part of this Act, or

(b.) obstructs the master (*o*) or medical practitioner in the execution of any duty imposed upon him by any such regulation ; or

(c.) is guilty of riotous or insubordinate conduct, that person shall for each offence be liable to a fine not exceeding two pounds, and in addition to imprisonment for any period not exceeding one month (*p*).

326.—(1.) Spirits shall not during the voyage be sold directly or indirectly in any emigrant ship (*q*) to any steerage passenger (*r*). Sale of spirits prohibited on emigrant ships.

(2.) If any person acts in contravention of this section, he shall for each offence be liable to a fine not exceeding twenty pounds (*p*). 1855, s. 62.

Maintenance after Arrival.

327.—(1.) Every steerage passenger (*r*) in an emigrant ship (*q*) shall be entitled for at least forty-eight hours next after his arrival at the end of his voyage to sleep in the ship, and to be provided for and maintained on board thereof, in the same manner as during the voyage, unless within that period the ship leaves the port in the further prosecution of her voyage. Maintenance of steerage passengers after arrival. 1855, s. 57.

(2.) If this section is not complied with in the case of any emigrant ship (*q*), the master (*o*) shall for each offence be liable to a fine not exceeding five pounds (*p*).

Detention and Wrongful Landing of Passengers (s).

328. Where a contract has been made by or on behalf of any steerage passenger (*r*) for a passage in a ship (*o*) proceeding on a voyage from the British Islands (*t*) to any Return of passage money and compensation

(*m*) Includes refusal ; § 742.

(*n*) § 324.

(*o*) Defined, § 742.

(*p*) Procedure, § 356 ; ultimate liability of owner, see § 359.

(*q*) § 268, s. 1.

(*r*) § 268, s. 3.

(*s*) For application, see Preliminary Note to this Part, and § 365.

(*t*) Int. Act, 1889, § 18, s. 1.

to passen-
gers when
passage
not pro-
vided ac-
cording to
contract.
1855, s. 48.

port (*u*) out of Europe and not within the Mediterranean Sea, or proceeding on any colonial voyage as defined by this Part of this Act (*x*), and—

- (i.) the steerage passenger (*y*) is at the place of embarkation before the hour of six o'clock in the afternoon of the day of embarkation appointed in the contract; and
- (ii.) the stipulated passage money has, if required, been paid,

then if the steerage passenger (*y*) from any cause whatever (other than his own refusal, neglect, or default, or the prohibition under this Act (*z*) of an emigration officer (*a*), or the requirement of an Order in Council (*b*)),

(*a*.) is not received on board the ship before the said hour; or,

(*b*.) having been received on board, does not either obtain a passage in the ship to the port (*u*) at which he has contracted to land or, together with all the immediate members of his family who are included in the contract, obtain a passage to the same port in some other equally eligible ship to sail within ten days from the expiration of the said day of embarkation, and is not paid subsistence money from the time and at the rate herein-after provided (*c*);

the steerage passenger (*y*), or any emigration officer (*a*) on his behalf, may recover summarily (*d*) all money paid by or on account of the steerage passenger (*y*) for his passage, together with such further sum not exceeding ten pounds in respect of each such steerage passenger (*y*) as is in the opinion of the court a reasonable compensation for the loss or inconvenience occasioned to the steerage passenger (*y*) by the loss of his passage, and such money and sum may be recovered, either from any person to whom or on whose account any money has been paid under the contract, or if the contract has been made with the owner (*e*), charterer,

(*u*) Defined, § 742.

(*x*) § 270.

(*y*) § 268, s. 3.

(*z*) § 307.

(*a*) § 355. He has the protection

of the Public Authorities Protection

Act, 1893; see § 358.

(*b*) § 324.

(*c*) § 329.

(*d*) § 357.

(*e*) § 58 and note.

or master (*f*) of the ship, or with any person acting on behalf or by the authority of any of them, then, at the option of the steerage passenger (*g*) or emigration officer (*h*), from the owner (*i*), charterer, or master (*f*), or any of them (*k*).

329.—(1.) If any ship (*f*), whether an emigrant ship (*l*) or otherwise, does not actually put to sea and proceed on her intended voyage before three o'clock in the afternoon of the day next after the day of embarkation appointed in the contract, the owner (*i*), charterer, or master (*f*) of the ship (*f*), or his agent, or any of them shall, until the ship finally proceeds on her voyage, pay to every steerage passenger (*g*) entitled to a passage in the ship, or (if the steerage passenger (*g*) is lodged and maintained in any hulk or establishment under the superintendence of the Board of Trade) to the emigration officer (*h*) at the port of embarkation, subsistence money at the following rate (*m*); that is to say—

- (a.) for each of the first ten days of detention, one shilling and sixpence; and
- (b.) for every subsequent day, three shillings for each statute adult (*n*).

(2.) Where the steerage passengers (*g*) are maintained on board in the same manner as if the voyage had commenced—

- (a.) subsistence money (*o*) shall not be payable for the first two days next after the said day of embarkation; and
- (b.) if the ship is unavoidably detained by wind or weather, or by any cause not attributable in the opinion of the emigration officer (*h*) to the act or default of the owner (*p*), charterer, or master (*f*),

(*f*) Defined, § 742.

(*g*) § 268, s. 3.

(*h*) § 355. He has the protection of the Public Authorities Protection Act, 1893; see § 358.

(*i*) § 58 and note.

(*k*) Ultimate liability of the owner, see § 353.

(*l*) § 268, s. 1.

(*m*) How recoverable, see §§ 356, 357; ultimate liability of owner, § 359.

(*n*) § 268, s. 2.

(*o*) Sub-s. 1.

(*p*) Notes to § 58.

Subsistence in case of detention. 1855, ss. 49, 85.

subsistence money (*q*) shall not be payable during any part of that period of detention.

Penalty
for landing
steerage
passengers
at wrong
place.
1855, s. 56.

330. If a steerage passenger (*r*) is landed from any ship (*s*), whether an emigrant ship (*t*) or not, at any port (*s*) other than the port (*s*) at which he has contracted to land, unless with his previous consent, or unless the landing is rendered necessary by perils of the sea or other unavoidable accident, the master (*s*) of the ship shall for each offence be liable to a fine not exceeding fifty pounds (*u*).

Provisions in case of Wreck (x).

Provisions
in case of
an emi-
grant ship
being
wrecked
or dam-
aged in
or near
British
Islands.
1863, s. 14.

331.—(1.) When any emigrant ship (*t*)—

- (a.) has, while in any port (*s*) of the British Islands (*y*), or after the commencement of the voyage, been wrecked or otherwise rendered unfit to proceed on her intended voyage, and any steerage passengers (*r*) have been brought back to any port (*s*) in the British Islands (*y*); or
- (b.) has put into any port (*s*) in the British Islands (*y*) in a damaged state;

the master (*s*), charterer, or owner (*z*) of that ship shall, within forty-eight hours thereafter, give to the nearest emigration officer (*a*) a written undertaking to the following effect; that is to say,

- (i.) if the ship has been wrecked or rendered unfit to proceed on her voyage, that the owner (*z*), charterer, or master (*s*) thereof will embark and convey the steerage passengers (*t*) in some other eligible ship, to sail within six weeks from the date of the undertaking, to the port (*z*) for which their passage had been taken:
- (ii.) if the ship has put into port in a damaged state, that she will be made seaworthy and fit in all respects

(*q*) Sub-a. 1.

(*r*) § 268, s. 3.

(*s*) Defined, § 742.

(*t*) § 268, s. 1.

(*u*) How recoverable, §§ 356, 357;
ultimate liability of owner, § 359.

(*x*) For application, see Prelimi-

nary Note to this Part, and § 365.

(*y*) Int. Act, 1889, § 18, s. 1.

(*z*) Notes to § 58.

(*a*) § 355. He has the protection of the Public Authorities Protection Act, 1893; see § 358.

for her intended voyage, and will within six weeks from the date of the undertaking sail again with the steerage passengers (*b*).

(2.) In either of the above cases, the owner (*c*), charterer, or master (*d*) shall, until the steerage passengers (*b*) proceed on their voyage, either lodge and maintain them on board in the same manner as if they were at sea, or pay either to the steerage passengers (*b*), or (if they are lodged and maintained in any hulk or establishment under the superintendence of the Board of Trade) to the emigration officer (*e*) at the port, subsistence money (*f*) at the rate of one shilling and sixpence a day for each statute adult (*g*).

(3.) If the substituted ship, or the damaged ship, as the case may be, does not sail within the above-mentioned time (*h*), or if default is made in compliance with any requirement of this section, any steerage passenger (*b*) or any emigration officer (*e*) on his behalf may recover summarily all money paid by or on account of the passenger for the passage from the person to whom or on whose account the same was paid, or from the owner (*c*), charterer, or master (*d*) of the ship, at the option of the passenger or emigration officer (*e*).

(4.) The emigration officer (*e*) may, if he thinks it necessary, direct that the steerage passengers (*b*) be removed from any damaged emigrant ship (*i*) at the expense of the master (*d*) thereof (*f*), and if after that direction any steerage passenger (*b*) refuses to leave the ship, he shall for each offence be liable to a fine not exceeding forty shillings (*k*), or to imprisonment not exceeding one month.

332. If any passenger (*l*), whether a cabin or a steerage passenger (*b*), is either taken off any ship (*d*) which is carrying any steerage passenger (*b*) on a voyage from any part of Her Majesty's dominions and is damaged (*m*), wrecked, Expenses of rescue and conveyance of wrecked passengers.

(*b*) § 268, s. 3.

(*c*) Notes to § 58.

(*d*) Defined, § 742.

(*e*) § 355. He has the protection of the Public Authorities Protection Act, 1893; see § 358.

(*f*) How recovered, see §§ 356, 357, and sub-s. 3 of this section.

(*g*) § 268, s. 2.

(*h*) Sub-s. 1, (i.), (ii.).

(*i*) § 268, s. 1.

(*k*) How recoverable, §§ 356, 357; ultimate liability of owner, § 359.

(*l*) § 267.

(*m*) The ship, not the passenger.

1855, s. 52.

52 & 53

Vict. c. 29,

s. 2.

sunk or otherwise destroyed, or if any such passenger is picked up at sea from any boat, raft, or otherwise, it shall be lawful—

(a.) if the port(*n*) to which such passenger (in this Act referred to as a “wrecked passenger”) is conveyed is in the United Kingdom, for a Secretary of State (*o*); and

(b.) if the port(*n*) is in a British possession (*p*) for the governor(*q*) of that possession, or any person authorized by him for the purpose; and

(c.) if the port(*n*) is elsewhere, for the British consular officer (*r*) there;

to defray all or any part of the expenses thereby incurred (*s*).

Forward-
ing of pas-
sengers by
governors
or consuls.
1863, ss.
15, 16.

333.—(1.) If any passenger(*t*) whether a cabin or a steerage passenger(*u*) from any ship(*n*) which is carrying any steerage passenger(*u*) on a voyage from any port(*n*) in Her Majesty's dominions finds himself without any neglect or default of his own at any port(*n*) outside the British Islands(*x*) other than the port(*n*) for which the ship was originally bound, or at which he, or the Board of Trade, or any public officer or other person on his behalf, has contracted that he should land, it shall be lawful—

(a.) if the place is in a British possession (*p*), for the governor(*q*) of that possession, or any person authorized by the governor(*q*) for the purpose; and

(b.) if the place is elsewhere, for the British consular officer (*r*) there;

to forward the passenger(*t*) to his intended destination, unless the master(*n*) of the ship, within forty-eight hours of the arrival of the passenger, gives to the governor(*q*) or consular officer (*r*), as the case may be, a written undertaking to forward or convey within six weeks thereafter

(*n*) Defined, § 742.

(*o*) Int. Act, 1889, § 12, s. 3.

(*p*) Ibid. § 18, s. 2.

(*q*) Ibid. § 18, s. 6.

(*r*) Ibid. § 12, s. 20.

(*s*) To be ultimately defrayed as in § 334.

(*t*) § 267.

(*u*) § 268, s. 1.

(*x*) Int. Act, 1889, § 18, s. 1.

the passenger to his original destination, and forwards or conveys him accordingly within that period.

(2.) A passenger(*c*) so forwarded by or by the authority of a governor(*d*) or a British consular officer(*e*) shall not be entitled under this Part of this Act to the return of his passage money, or to any compensation for loss of passage(*f*).

334.—(1.) All expenses incurred under this Part of this Act by or by the authority of a Secretary of State(*g*), governor(*d*) of a British possession(*h*), or consular officer(*e*), in respect of a wrecked passenger(*i*), or forwarding of a passenger to his destination(*k*), including the cost of maintaining the passenger, until forwarded to his destination, and of all necessary bedding, provisions, and stores, shall be a joint and several debt to the Crown(*l*) from the owner(*m*), charterer, and master(*n*) of the ship on board of which the passenger had embarked.

Recovery of expenses incurred in conveying wrecked passengers and forwarding passengers. 1863, s. 16.

(2.) In any proceeding for the recovery of that debt a certificate(*o*) purporting to be under the hand of a Secretary of State(*g*), governor(*d*), or consular officer(*e*), and stating the circumstances of the case, and the total amount of the expenses, shall be admissible in evidence in manner provided by this Act(*p*), and shall be sufficient evidence of the amount of the expenses, and of the fact that the same were duly incurred, unless the defendant specially pleads and duly proves that the certificate is false and fraudulent, or that the expenses were not duly incurred under this Act.

(3.) The sum recovered on account of the expenses shall not exceed twice the total amount of passage money which the owner(*m*), charterer, or master(*n*) of the emigrant ship(*q*) proves to have been received by him or on his account, or to be due to and recoverable by him or on his

(*c*) § 267.

(*d*) Int. Act, 1889, § 18, s. 6.

(*e*) Ibid. § 12, s. 20.

(*f*) § 328.

(*g*) Int. Act, 1889, § 12, s. 3.

(*h*) Ibid. § 18, s. 2.

(*i*) § 332.

(*k*) § 333.

(*l*) See Index to Statutes, title, "Crown Debt."

(*m*) § 58, and note.

(*n*) Defined, § 742.

(*o*) Form of certificate, see Schedule XIV. form 3; and § 360.

(*p*) § 695.

(*q*) § 268, s. 1.

account in respect of the whole number of passengers (*r*) whether cabin or steerage (*s*) who embarked in the ship.

Validity
of insur-
ance of
passage
money.
1855, s. 55.

335. A policy of assurance effected in respect of any steerage passage (*t*) or of any steerage passage (*t*) or compensation money by any person by this Part of this Act made liable, in the events aforesaid, to provide such passage or to pay such money (*u*), or in respect of any other risk under this Part of this Act, shall not be invalid by reason of the nature of the risk or interest sought to be covered by the policy of assurance (*x*).

Voyages to the United Kingdom.

List of
steerage
passengers
brought to
the British
Islands.
1855, ss.
4, 100.

336.—(1.) The master (*y*) of every ship (*y*) bringing steerage passengers (*s*) to the British Islands (*z*) from any port (*y*) out of Europe and not within the Mediterranean Sea shall, within twenty-four hours after arrival, deliver to the emigration officer (*a*) at the port (*y*) of arrival a correct list, signed by the master, and specifying the name, age, and calling of every steerage passenger (*s*) embarked, and the port (*y*) at which he embarked, and showing also any birth which has occurred amongst the steerage passengers (*s*), and if any steerage passenger (*s*) has died, his name and the supposed cause of his death.

(2.) If the master (*y*) of a ship (*y*) fails (*b*) so to deliver the list, or if the list is wilfully false, he shall for each offence be liable to a fine not exceeding fifty pounds (*c*).

Number of
steerage
passengers
on ships
bringing
passengers
to British
Islands.
1855, ss.
4, 101.

337. If any ship (*y*) bringing steerage passengers (*s*) to the British Islands (*z*) from any port (*y*) out of Europe and not within the Mediterranean Sea has on board a greater number of steerage passengers (*s*) than is allowed by this

(*r*) § 267.

(*s*) § 268, s. 3.

(*t*) § 268, s. 4.

(*u*) *e.g.* cf. §§ 328, 329, 331, 334.

(*z*) It was held in *Gibson v. Bradford* (1855), 4 E. & B. 586, that expenses under § 331 could be recovered by the owner on a policy as there drawn, under the Act of 1852. In *Willis v. Cooke* (1855), 5 E. & B. 641,

the terms of the policy were not wide enough to cover a maintenance of passengers for more than six weeks in a port of distress.

(*y*) Defined, § 742.

(*z*) Int. Act, 1889, § 18, s. 1.

(*a*) § 355.

(*b*) Includes refusal; § 742.

(*c*) Procedure, §§ 356, 357; ultimate liability of owner, § 359.

Act (*d*) in the case of emigrant ships (*e*) proceeding from the British Islands (*f*), the master (*g*) of that ship shall, for each statute adult (*h*) constituting such excess, be liable to a fine not exceeding ten pounds (*i*).

338.—(1.) The master (*g*) of every ship (*g*) bringing steerage passengers (*k*) to the British Islands (*f*) from any port (*g*) out of Europe and not within the Mediterranean Sea shall issue to each steerage passenger (*k*) during the voyage, including the time of detention, if any, at any port before the termination thereof, pure water and good and wholesome provisions in a sweet condition, in quantities not less than the amount required by this Part of this Act (*l*) in the case of emigrant ships (*e*) proceeding from the British Islands (*f*).

Provisions and water in ships carrying steerage passengers to British Islands. 1855, ss. 4, 102.

(2.) If any requirement of this section is not complied with in the case of any emigrant ship (*e*), the master (*g*) of that ship shall for each offence be liable to a fine not exceeding fifty pounds (*i*).

Registration of Births and Deaths.

339. Where a ship (*g*) which is not a British (*m*) ship carries passengers (*n*), whether cabin or steerage (*k*), to or from any port (*g*) of the United Kingdom as the port (*g*) of destination or the port (*g*) of departure of such ship, the provisions of Part Two of this Act with respect to the registration of births and deaths occurring on board (*o*), shall apply as if it were a British (*m*) ship.

Application to foreign ships carrying passengers of provisions respecting registration of births and deaths. 37 & 38 Vict. c. 88, s. 37 (2). Saving for right of action on contract for passage. 1855, s. 58.

Saving of Right of Action.

340 (*p*). Nothing in this Part of this Act shall take away or abridge any right of action which may accrue to a steerage passenger (*k*) in any ship, or to any other person, in respect of the breach or non-performance of any contract made between, or on behalf of, such steerage

- (*d*) § 292, and Schedule X.
- (*e*) § 268, s. 1.
- (*f*) Int. Act, 1889, § 18, s. 1.
- (*g*) Defined, § 742.
- (*h*) § 268, s. 2.
- (*i*) Procedure, §§ 356, 357; ultimate liability of owner, § 359.
- (*k*) § 268, s. 3.

- (*l*) § 295; Schedule XII.
- (*m*) Note to § 1.
- (*n*) § 267.
- (*o*) §§ 254, *et seq.*
- (*p*) Otherwise it might be held that the penalties provided in the sections were the only remedy.

passenger (*q*) or other person and the master (*r*), charterer, or owner (*s*) of any such ship, or his agent, or any passage broker (*t*).

Passage Brokers (u).

Passage
broker.
1855, s. 66.

341.—(1.) Any person (*x*) who sells or lets or agrees to sell or let, or is anywise concerned in the sale or letting of steerage passages (*y*) in any ship proceeding from the British Islands (*z*) to any place out of Europe not within the Mediterranean Sea shall for the purposes of this Part of this Act be a passage broker.

(2.) The acts and defaults of any person acting under the authority, or as an agent, of a passage broker (*a*), shall, for the purposes of this Act, be deemed to be also the acts and defaults of the passage broker.

Passage
brokers to
enter into
bond and
obtain
licence.
1855, s. 66.

342. (1.) A person (*x*) shall not act directly or indirectly as a passage broker (*a*), unless he—

- (*a*.) has entered, with two good and sufficient sureties approved by the emigration officer (*b*) nearest to his place of business, into a joint and several bond (*c*) to the Crown, in the sum of one thousand pounds; and
- (*b*.) holds a licence (*d*) for the time being in force to act as passage broker (*a*).

(2.) The bond shall be renewed on each occasion of obtaining a licence, and shall not be liable to stamp duty; it shall be executed in duplicate, and one part shall be deposited at the office of the Board of Trade, and the other part with the said emigration officer (*b*).

(3.) The emigration officer (*b*) may, in lieu of two securities, accept the bond of any guarantee society approved by the Treasury.

(*q*) § 268, s. 3.

(*r*) Defined, § 742.

(*s*) Note to § 58.

(*t*) § 341.

(*u*) As to application of these sections, see Preliminary Note to this Part, and § 365.

(*x*) Int. Act, 1889, §§ 2, 19: includes corporations.

(*y*) § 268, s. 4.

(*z*) Int. Act, 1889, § 18, s. 1.

(*a*) § 341, s. 1.

(*b*) § 355. He is protected by the Public Authorities Protection Act; see § 358.

(*c*) Form in Schedule XIV.; see § 360.

(*d*) § 343.

(4.) There shall be exempted from this section—

- (a.) the Board of Trade, and any person contracting with them or acting under their authority; and
- (b.) any passage broker's agent duly appointed under this Act (c).

(5.) If any person (d) fails (e) to comply with any requirement of this section, he shall for each offence be liable to a fine not exceeding fifty pounds (f).

343.—(1.) Application for a licence to act as passage broker shall be made to the licensing authority (g) for the place in which the applicant has his place of business.

(2.) The licensing authority (g), upon the applicant proving to their satisfaction that he

(a.) has entered into and deposited one part of such bond as is required by this Act (h); and

(b.) has given to the Board of Trade at least fourteen days' clear notice (i) of his intention to apply for a licence,

may grant the licence (i), and shall forthwith send to the Board of Trade notice of such grant (i).

(3.) The licensing authority shall be—

- (a.) in the administrative county of London the justices of the peace at petty sessions;
- (b.) elsewhere in England, the council of a county borough or county district;
- (c.) in Scotland, the sheriff; and
- (d.) in Ireland, the justices in petty sessions.

344.—(1.) A passage broker's (k) licence (h) shall, unless forfeited, remain in force until the thirty-first day of December in the year in which it is granted, and for thirty-one days afterwards.

(2.) Any court (l), when convicting a passage broker (k) of an offence under this Part of this Act or of any breach or

(c) § 345.
 (d) Int. Act, 1889, §§ 2, 19: includes corporations.
 (e) Includes refusal; § 742.
 (f) Procedure, §§ 356, 357; ultimate liability of owner, § 359.

(g) Sub-s. 3.
 (h) § 342, 1 (a.).
 (i) Form in Schedule XIV.; see § 360.
 (k) § 341, s. 1.
 (l) Defined, § 742.

Granting of licences to passage brokers. 1855, s. 67. 56 & 57 Vict. c. 73, s. 27.

Forfeiture of licence. 1855, s. 67.

non-performance of the requirements thereof, may order that his licence be forfeited (*m*), and the same shall be forfeited accordingly.

(8.) The court shall forthwith send to the Board of Trade a notice of any such order.

Passage
broker's
agents.
1855, ss.
66, 69.

345.—(1.) A passage broker (*n*) shall not employ as an agent in his business of passage broker (*n*) any person who does not hold from him an appointment (*m*), signed by the passage broker (*n*), and countersigned by the emigration officer (*o*) at the port (*p*) nearest to the place of business of the passage broker.

(2.) Every such agent shall, upon request, produce his appointment to any emigration officer (*o*), or to any person treating for a steerage passage (*q*) under this Part of this Act.

(3.) If any person (*r*) acts in contravention of this section he shall for each offence be liable to a fine not exceeding fifty pounds (*s*).

List of
agents and
runners to
be ex-
hibited by
brokers,
and sent
to emigra-
tion
officers.
1855, s. 81.

346.—(1.) A passage broker (*n*) shall keep exhibited in some conspicuous place in his office or place of business a correct list, in legible characters, containing the names and addresses in full of every person for the time being authorized to act as his agent (*t*) or as an emigrant runner (*u*) for him, and shall on or before the fifth day, or, if that day be a Sunday, on or before the fourth day in every month, transmit a true copy of that list, signed by him, to the emigration officer (*o*) nearest to his place of business, and shall report to that emigration officer (*o*) every discharge or fresh engagement of an agent (*t*) or of an emigrant runner (*u*) within twenty-four hours of the same taking place.

(2.) If a passage broker (*n*) fails (*x*) to comply with any

(*m*) Forms, see § 360, and Schedule XIV.

(*n*) § 341, s. 1.

(*o*) § 355. He is protected by the Public Authorities Protection Act, 1893; see § 358 of this Act.

(*p*) Defined, § 742.

(*q*) § 268, s. 4.

(*r*) Includes corporations; Int. Act, 1889, §§ 2, 19.

(*s*) Procedure, §§ 356, 357.

(*t*) § 345.

(*u*) § 347.

(*x*) Includes refusal; § 742.

requirement of this section he shall for each offence be liable to a fine not exceeding five pounds (*y*).

Emigrant Runners (z).

347. If any person other than a licensed passage broker (*a*) or his bonâ fide salaried clerk, in or within five miles of the outer boundaries of any port (*b*), for hire or reward or the expectation thereof directly or indirectly conducts, solicits, influences, or recommends any intending emigrant (*c*) to or on behalf of any passage broker (*a*), or any owner (*d*), charterer, or master (*b*) of a ship, or any keeper of a lodging-house, tavern or shop, or any money-changer or other dealer or chapman, for any purpose connected with the preparations or arrangements for a passage, or gives or pretends to give to any intending emigrant (*c*) any information or assistance in any way relating to emigration, that person shall for the purposes of this Part of this Act be an emigrant runner. Emigrant runner. 1855, s. 3.

348.—(1.) The licensing authority (*e*) for passage brokers (*a*) for the place in which a person wishes to act as an emigrant runner (*f*), and to carry on his business, may, upon his application and on the recommendation in writing of an emigration officer (*g*), or of the chief constable or other head officer of police in such place (but not otherwise), grant, if they think fit, to the applicant a licence (*h*) to act as emigrant runner (*f*). Emigrant runner's licence. 1855, ss. 75-78. 56 & 57 Vict. c. 73, s. 27.

(2.) The emigrant runner (*f*) shall, within forty-eight hours after his licence is granted lodge the same with the nearest emigration officer (*g*), and that officer shall—

(*a.*) register the name and abode of the emigrant runner (*f*) in a book to be kept for the purpose, and number each name in arithmetical order; and

(*y*) Procedure, §§ 356, 357.
(*z*) For application, see Preliminary Note to this Part, and § 365.

(*a*) § 341, s. 1.

(*b*) Defined, § 742.

(*c*) Not defined in the Act; would include any person proposing to travel as a passenger on an emigrant ship. See § 268, s. 1.

(*d*) Note to § 58.

(*e*) § 343, s. 3.

(*f*) § 347.

(*g*) § 355. He is protected by the Public Authorities Protection Act, 1893; see § 358 of this Act.

(*h*) Form, see § 360, and Schedule XIV. form 10.

(b.) upon receipt of a fee, not exceeding seven shillings, supply to the emigrant runner (i) a badge of such form and description as the Board of Trade approve, but in case of a renewed licence, the officer need only note the renewal and its date in his registry book against the original entry of the emigrant runner's name.

(3.) An emigrant runner's (i) licence shall remain in force until the thirty-first day of December in the year in which it is granted, unless sooner revoked by any justice for any offence against this Act or for any other misconduct committed by the holder of such licence, or unless forfeited under the provisions herein-after contained.

(4.) When an emigrant runner (i) changes his abode, the emigration officer (k) shall register the change in his registry book.

Renewal
of badge.
1855, s. 79.

349. Where an emigrant runner (i), either satisfies the emigration officer (k) for the port (l) in which he is licensed (m) to act that his badge (n) is lost, or delivers his badge up to such officer in a mutilated or defaced state, and in either case pays such officer five shillings, the officer may, if he thinks fit, supply him with a new badge.

Penalties
on persons
acting
without
licence or
badge,
using
badge not
lawfully
issued, or
employing
unlicensed
person.
1855, ss.
75, 78.

350.—(1.) A person shall not—

- (a.) act as an emigrant runner (i) without being duly licensed (m) and registered; or
- (b.) retain or use any emigrant runner's (n) badge not issued to him in manner by this Act required; or
- (c.) counterfeit or forge any emigrant runner's badge (n); or
- (d.) employ as an emigrant runner (i) any person not duly licensed or registered (o).

(2.) If any person (p) acts in contravention of this section, he shall for each offence be liable to a fine not exceeding five pounds (q).

(i) § 347.

(k) § 355. He is protected by the Public Authorities Protection Act, 1893; see § 358 of this Act.

(l) Defined, § 742.

(m) § 318, s. 1.

(n) § 348, s. 2.

(o) § 348.

(p) Includes corporations; Int. Act, 1889, §§ 2, 19.

(q) Procedure, §§ 356, 357.

351.—(1.) An emigrant runner (*r*)—

- (*a*.) shall while acting as an emigrant runner (*r*) wear his badge (*s*) conspicuously on his breast; and
- (*b*.) shall lodge his licence (*t*) with the emigration officer (*u*) as required by this Act (*t*); and
- (*c*.) on changing his abode, shall within forty-eight hours give notice of the change to the emigration officer (*u*) of the port (*x*) in which he is licensed to act (*t*); and
- (*d*.) on losing his badge (*s*) shall within forty-eight hours give notice to such emigration officer (*u*) of the loss; and
- (*e*.) shall produce on demand his badge (*s*) for inspection, or permit any person to take the number thereof; and
- (*f*.) shall not mutilate or deface his badge (*s*); and
- (*g*.) shall not wear his badge (*s*) while unlicensed; and
- (*h*.) shall not wear any other badge (*s*) than that delivered to him by the emigration officer (*u*); and
- (*i*.) shall not permit any other person to use his badge (*s*).

Penalties on emigrant runners for certain acts of misconduct. 1855, ss. 75, 76, 78.

(2.) If an emigrant runner (*r*) fails (*y*) to comply with any requirement of this section, he shall for each offence be liable to a fine not exceeding forty shillings, and, if the court think fit, to the forfeiture of his licence (*z*).

352.—(1.) An emigrant runner (*r*) shall not be entitled to recover from a passage broker (*a*) any fee commission or reward for or in consideration of any service connected with emigration, unless he is acting under the written authority of that passage broker (*a*).

Emigrant runners' commission and fees. 1855, s. 80.

(2.) An emigrant runner (*r*) shall not take or demand from any person about to emigrate any fee or reward for procuring his steerage passage (*b*), or in any way relating thereto, and if he does so he shall for each offence be liable to a fine not exceeding five pounds (*z*).

Frauds in procuring Emigration.

353. If any person by any false representation, fraud, or false pretence induces any person to engage a steerage

Frauds in procuring passages. 1855, s. 70.

(*r*) § 347.

(*s*) § 348, s. 2.

(*t*) § 348.

(*u*) § 355.

(*x*) Defined, § 712.

(*y*) Includes refusal; § 742.

(*z*) Procedure, §§ 356, 357.

(*a*) § 341.

(*b*) § 268, s. 4.

passage (*c*) in any ship (*d*), he shall for each offence be liable to a fine not exceeding twenty pounds (*e*).

Penalties
for fraud
in con-
nexion
with as-
sisting
emigra-
tion.
1855, s. 83.
35 & 36
Vict. c. 73,
s. 6.

354. If any person (*f*)—

(*a*.) falsely represents himself to be, or falsely assumes to act as, agent of the Board of Trade in assisting persons who desire to emigrate; or

(*b*.) sells any form of application, embarkation order, or other document or paper issued by the Board of Trade or by a Secretary of State (*g*) for the purpose of assisting persons who desire to emigrate; or

(*c*.) makes any false representation (*h*) in any such application for assistance to the Board of Trade or a Secretary of State (*g*), or in any certificate of marriage, birth, or baptism, or other document or statement adduced in support of any such application; or

(*d*.) forges or fraudulently alters any signature or statement in any such application, certificate, document, or statement, or personates any person named therein; or

(*e*.) aids or abets any person in committing any of the foregoing offences;

that person (*f*) shall, for each offence, be liable to a fine not exceeding fifty pounds (*e*).

Emigration Officers.

Emigra-
tion offi-
cers and
assistants.
1855, ss.
7-9.
35 & 36
Vict. c. 73,
s. 5.

355.—(1.) In the British Islands (*i*) the Board of Trade, and in a British possession (*k*) the Governor (*l*) of that possession, may appoint and remove such emigration officers and assistant emigration officers as seem necessary for carrying this Part of this Act into execution, under the direction of the Board or Governor (*l*), as the case may be (*m*).

(*c*) § 268, s. 4.

(*d*) Defined, § 742.

(*e*) Procedure, §§ 356, 357.

(*f*) Includes corporations; Int. Act, 1889, §§ 2, 19.

(*g*) Int. Act, 1889, § 12, s. 3.

(*h*) In the section reproduced this was only an offence, if done wilfully;

a false representation may be made innocently; *semble*, this changes the law.

(*i*) Int. Act. 1889, § 18, s. 1.

(*k*) Ibid. s. 2.

(*l*) Ibid. s. 6.

(*m*) Such officers are protected under § 358.

(2.) All powers, functions, and duties to be exercised or performed, and anything to be done in pursuance of this Part of this Act by, to, or before an emigration officer, may be exercised, performed, and done by, to, or before his assistant, or, at any port (*n*) where there is no emigration officer or assistant, or in their absence, by, to, or before the chief officer of customs (*n*) for the time being at such port, and in any such case it shall be the duty of the chief officer of customs (*n*) to do anything which it is the duty of the emigration officer or his assistant to do.

(3.) A person lawfully acting as an emigration officer under this Act shall in no case be personally liable for the payment of any money or costs or otherwise in respect of any contract made, or of any legal proceedings for anything done, by him in his official capacity as an emigration officer and on the public service (*o*).

Legal Proceedings.

356. All fines and forfeitures (*p*) under the provisions of this Part of this Act (other than the provisions relating to passenger steamers only (*q*)) shall be sued for (*r*) by the following officers (*s*); that is to say, .

- (a.) any emigration officer (*t*);
- (b.) any chief officer of Customs (*n*); and also
- (c.) in the British Islands (*u*), any person authorized by the Board of Trade and any officer of customs authorized by the Commissioners of Customs; and
- (d.) in a British Possession (*x*) any person authorized by the Governor (*y*) of that possession, or any officer of customs authorized by the Government department regulating the customs in that possession.

357. All sums of money made recoverable by this Part of this Act in respect of passage money (*z*), subsistence

- (*n*) Defined, § 742.
- (*o*) Cf. *Steel v. Schomberg* (1855), 4 E. & B. 620.
- (*p*) Application of fines, §§ 699, 716.
- (*q*) §§ 271-288.
- (*r*) Procedure, see §§ 680-684.

- (*s*) Protected by § 358.
- (*t*) § 355.
- (*u*) Int. Act, 1889, § 18, s. 1.
- (*x*) Ibid. s. 2.
- (*y*) Ibid. s. 6.
- (*z*) §§ 328, 331, 332, 334, &c.

Recovery of fines. 1855, s. 84.

Recovery of passage and subsistence

money, compensation, and damages. 1855, ss. 73, 84, 85. money (*a*), damages, compensation, or costs may be sued for and recovered before a court of summary jurisdiction (*b*) by any person entitled thereto, or by any of the officers in the last preceding section mentioned on behalf of any one or more of such persons, and in any case either by one or several proceedings.

Protection of persons executing Act. 1855, ss. 92, 93. 358. The Public Authorities Protection Act, 1893 (*c*), shall for the purposes of the provisions of this Part of this Act (other than the provisions relating to passenger steamers only (*d*)) apply to the whole of Her Majesty's dominions, and to every place where Her Majesty has jurisdiction.

Supplemental.

Owner responsible for default in absence of agreement. 1855, s. 65. 359.—(1.) In the absence of any agreement to the contrary, the owner (*e*) of a ship shall be the person ultimately responsible as between himself and the other persons by this Part of this Act made liable in respect of any default in complying with any requirement thereof;

(2.) If any person so made liable pays any money by this Part of this Act made payable to or on behalf of a steerage passenger (*f*), he shall be entitled, in the absence of any such agreement as aforesaid, to sue for and recover from the owner (*e*) the amount so paid, together with costs.

Forms and fees. 1855, Sch. 1863, Sch. 36 & 37. Vict. c. 85, ss. 15, 30. 360.—(1.) The forms set out in the Fourteenth Schedule to this Act, or forms as near thereto as circumstances admit, shall be used in all cases to which such forms are applicable.

(2.) Such fees as the Board of Trade determine shall be paid in respect of the surveys of emigrant ships (*g*) mentioned in Part II. of the Ninth Schedule to this Act (*h*) not exceeding those specified therein.

(*a*) §§ 328, 331.

(*b*) Int. Act. 1889, § 13, s. 12.

(*c*) 56 & 57 Vict. c. 61. Its principal provision is that actions must be commenced within six months of the matter complained of.

(*d*) §§ 271-298.

(*e*) See note to § 58. Such provisions as in § 285, s. 5, "the owner,

if in fault;" or in § 281, imposing an additional fine on the master; or in § 293, s. 2, imposing a fine on the master alone, appear to exclude the operation of this section; cf. § 361, s. 3.

(*f*) § 268, s. 3; cf. § 357.

(*g*) § 268, s. 1.

(*h*) Cf. § 277.

(3.) If any person employed under this Part of this Act demands or receives, directly or indirectly, otherwise than by the direction of the Board of Trade, any fee, remuneration, or gratuity whatever in respect of any duty performed by him under this Part of this Act, he shall for each offence be liable to a fine not exceeding fifty pounds (*i*).

361.—(1.) The Board of Trade shall prepare such abstracts as they think proper of all or any of the provisions of this Part of this Act, and of any Order in Council made thereunder, and four copies of the abstracts, together with a copy of this Part of this Act, shall, on demand, be supplied by the chief officer of customs (*k*) at the port of clearance (*l*) to the master (*k*) of every emigrant ship (*m*) proceeding from the British Islands (*n*) to any British possession (*o*).

Posting of
abstracts
of Part
III. in
emigrant
ships.
1855, s. 61.

(2.) The master (*k*) shall, on request, produce a copy of this Part of this Act to any steerage passenger (*p*) for his perusal, and shall, before the embarkation of the steerage passengers (*p*), post copies of the abstracts in at least two conspicuous places between the decks on which steerage passengers may be carried (*q*), and shall keep them posted so long as any steerage passenger (*p*) is entitled to remain in the ship.

(3.) The master (*k*) shall be liable to a fine (*r*) not exceeding forty shillings for every day during any part of which by his act or default such copies of the extracts fail to be so posted (*s*).

(4.) If any person displaces or defaces any copy of the abstracts posted under this section he shall for each offence be liable to a fine (*r*) not exceeding forty shillings (*n*).

362.—(1.) The authority having the control of any docks or basins at any port (*k*) in the British Islands (*n*) from

Byelaws
by har-
bour
authority.
1855, s. 82.

(*i*) Procedure, §§ 356, 357.

(*k*) Defined, § 742.

(*l*) § 314. Customs Act, 1876.

(*m*) § 268, s. 1.

(*n*) Int. Act, 1889, § 18, s. 1.

(*o*) Int. Act, 1889, § 18, s. 2.

(*p*) § 268, s. 3.

(*q*) § 291.

(*r*) Application of fines, §§ 699, 716.

(*s*) § 356; cf. § 359.

which emigrant ships (*t*) are despatched, may, with the approval of a Secretary of State (*u*), make byelaws:—

- (*a*.) for specifying the docks, basins, or other places at which persons arriving by sea at the port (*x*) for the purpose of emigration, or actually emigrating therefrom, shall be landed and embarked;
- (*b*.) for regulating the mode of their landing and embarkation;
- (*c*.) for the storing and safe custody of their luggage;
- (*d*.) for licensing porters to carry their luggage or otherwise attend upon them; and
- (*e*.) for admitting persons to and excluding persons from access to the docks and basins.

(2.) The authority (*y*) may attach a fine not exceeding five pounds to a breach of any such byelaw, and instead of an emigration officer (*z*) the authority shall sue for and recover the fine.

(3.) The authority (*y*) making a byelaw under this section may, by their officers or servants or by any constable, arrest without warrant any person charged with a breach of the byelaw, and detain him until he can be brought before a justice of the peace, and that justice may try the case in a summary manner.

(4.) A byelaw made under this section shall be published in the London Gazette (*a*).

Exemption from survey of foreign passenger steamer or emigrant ship in certain cases.
39 & 40
Vict. c. 80,
s. 19.

363. Where a foreign ship is a passenger steamer (*b*) or emigrant ship (*c*) within the meaning of this Part of this Act, and the Board of Trade are satisfied, by the production of a foreign certificate of survey attested by a British consular officer (*d*) at a port (*x*) out of Her Majesty's dominions, that the ship has been officially surveyed at that port, and are satisfied that any requirements of this Act are proved by that survey to have been substantially complied with, the Board may, if they think fit, dispense with any

(*t*) § 268, s. 1.

(*u*) Int. Act, 1889, § 12, s. 3.

(*x*) Defined, § 742.

(*y*) Sub-s. 1.

(*z*) §§ 355, 357.

(*a*) Cf. § 740.

(*b*) § 267.

(*c*) § 268, s. 1.

(*d*) Int. Act, 1889, § 12, s. 20.

further survey of the ship in respect of any requirement so complied with, and grant or direct one of their officers to grant a certificate, which shall have the same effect as if given upon survey under this Part of this Act (e) :

Provided that Her Majesty in Council (f) may order that this section shall not apply in the case of an official survey at any port (g) at which it appears to Her Majesty that corresponding advantages are not extended to British ships (h).

Application of Part III. as regards Emigrant Ships.

364. The provisions of this Part of this Act respecting emigrant ships (i) shall apply to all voyages from the British Islands (k) to any port (g) out of Europe and not within the Mediterranean Sea.

Applica-
tion to
certain
voyages.
1855, s. 4.
1863, s. 4.

365.—(1.) This Part of this Act, so far as the same is applicable, shall apply to every ship carrying steerage passengers (l) on a colonial voyage as defined by this Part of this Act (m), provided that the enactments thereof relating to—

Limited
application
of
Part III.
of Act to
colonial
voyages.
1855, ss.
4, 96.

(a.) master's bond (§§ 309, 310) (n) ;

(b.) steerage passengers' contract tickets (§§ 320-323) ;

(c.) Orders in Council regulating emigration from the British Islands (k), or prescribing rules for promoting health, cleanliness, order, and ventilation (§ 324) ;

(d.) passage brokers (§§ 341-346) ;

(e.) emigrant runners (§§ 347-352) ; and

(f.) posting of abstracts, and production of a copy, of this Part of this Act (§ 361),

shall not apply.

(2.) Where the duration of a colonial voyage (as determined under this Part of this Act (m)) is less than three weeks, the enactments relating to—

(e) §§ 274, 289.

(f) § 738.

(g) Defined, § 742.

(h) Note to § 1.

(i) §§ 268, s. 1, 289, *et seq.*

(k) Int. Act, 1889, § 18, s. 1.

(l) § 268, s. 3.

(m) §§ 270, 366, 367.

(n) The references in this section are not part of the Act.

- (a.) the regulations scheduled to this Act as to the accommodation for steerage passengers (§ 291);
 - (b.) medical practitioner, stewards, cooks, cooking apparatus, and manning with an efficient crew (§§ 303-305); and
 - (c.) maintenance of steerage passengers after arrival (§ 327),
- shall also not apply.

(8.) Where the duration of a colonial voyage (as determined under this Part of this Act (*o*)), is less than three weeks, the enactments relating to the issue of provisions (§§ 295-298) shall not, except as to the issue of water, apply to any steerage passenger (*p*) who has contracted to furnish his own provisions.

Modifica-
tion of
provisions
of Part
III. in
their ap-
plication
to British
possession-
sions.
1855, ss.
97, 98.

366.—(1.) The governor (*q*) of a British possession (*r*) may by proclamation—

- (a.) determine what shall be deemed, for the purpose of this Part of this Act, to be the length of the voyage of any ship carrying steerage passengers (*p*) from any port (*s*) in that British possession (*r*) to any other port (*t*); and
- (b.) fix dietary scales for steerage passengers (*p*) during the voyage; and
- (c.) declare what medical stores shall be deemed necessary for the medical treatment of the steerage passengers (*p*) during the voyage.

(2.) Every such proclamation shall take effect from the issue thereof, and shall have effect without as well as within the possession (*r*), as if enacted in this Part of this Act.

(3.) The governor (*q*) of a British possession (*t*) may authorize such persons as he thinks fit to make a like survey of emigrant ships (*u*) sailing from that possession as is by this Act required to be made by two or more

(o) §§ 270, 366, 367.

(p) § 268, s. 3.

(q) Int. Act, 1889, § 18, s. 6.

(r) Int Act, 1889, § 18, s. 2.

(s) Defined, § 742.

(t) *Semble*, in the same possession.
268, s. 1.

competent surveyors (*x*) in the case of emigrant ships (*y*) sailing from the British Islands (*z*).

(4.) The governor (*a*) of a British possession (*b*) may authorize any competent person to act as medical practitioner on board an emigrant ship (*y*) proceeding on a colonial voyage (*c*).

367.—(1.) The governor (*a*) of each of the Australasian Colonies (*d*), that is to say, New South Wales, Victoria, South Australia, Western Australia, Queensland, Tasmania, New Zealand, and any colony (*d*) hereafter established in Australia, may by proclamation make such rules as he thinks proper for determining the number of steerage passengers (*e*) to be carried in any emigrant ship (*y*) proceeding from one of such colonies (*d*) to any other of those colonies (*d*), and for determining on what deck or decks, and subject to what reservations or conditions, steerage passengers (*e*) may be carried in such ship.

Power of
Governors
of colonies
as to
numbers
of steerage
passen-
gers.
16 & 17
Vict. c. 84.
1855, s. 15.
24 & 25
Vict. c. 52,
ss. 1-4.

(2.) The governor (*a*) of any British possession (*b*) may, if he thinks fit, declare by proclamation that ships intended to pass within the tropics from any port (*f*) in such possession may convey steerage passengers (*e*), being natives of Asia or Africa, after the rate of one for every twelve superficial feet of the passenger deck instead of after the rate specified in the Tenth Schedule to this Act.

(3.) Every such proclamation shall take effect from the issue thereof, or such other day as may be named therein, and shall have effect without as well as within the possession (*b*), as if it were enacted in this Part of this Act in substitution as respects the said ships for the Tenth Schedule to this Act.

(4.) The provisions of the Tenth Schedule to this Act with respect to the number of superficial feet to be allowed to each steerage passenger (*e*) shall not apply to any ship (*f*) proceeding from any port (*f*) in the island of

(*x*) § 289.

(*y*) § 268, s. 1.

(*z*) Int. Act, 1889, § 18, s. 1.

(*a*) Ibid. § 18, s. 6.

(*b*) Ibid. § 18, s. 2.

(*c*) § 270.

(*d*) Int. Act, 1889, § 18, s. 3.

(*e*) § 268, s. 3.

(*f*) Defined, § 742.

Ceylon to any port in British India (*g*) in the Gulf of Manar or Palk's Straits, and the legislature (*h*) of Ceylon may regulate by law the number of steerage passengers (*i*) who may be carried on board such ships.

Power for
legislature
of India
to apply
Part III.
1855, s. 99.

368.—(1.) The provisions of this Part of this Act (other than the provisions relating to passenger steamers only (*k*)) shall not apply to British India (*g*), except as in this section provided.

(2.) The Governor-General of India (*l*) in Council may, by any Act passed for the purpose, declare that all or any provisions of this Part of this Act shall apply to the carriage of steerage passengers (*i*) upon any voyage from any specified port (*m*) in British India (*g*) to any specified port (*m*) whatsoever; and may for the purpose of this Part of this Act—

(a.) fix dietary scales for the voyage, and authorize the substitution of those scales for the scale enacted by this Act (*n*);

(b.) determine what shall be deemed to be the length of any such voyage;

(c.) determine the persons or officers who in British India (*g*) shall take the place of emigration officers (*o*) and officers of customs in the British Islands (*p*);

(d.) declare the space necessary for steerage passengers (*i*), and the age at which two children shall be treated as one statute adult (*q*), in ships clearing out from any port (*m*) in British India (*g*); and

(e.) authorize the employment on board any ship of a medical practitioner duly qualified according to Indian law; and

(f.) provide for the recovery and application in British India (*g*) of fines and sums of money under this Part of this Act,

and the provisions of any such Act while in force shall

(*g*) Int. Act, 1889, § 18, s. 4.

(*h*) Ibid. § 7.

(*i*) § 268, s. 3.

(*k*) §§ 271–288.

(*l*) Int. Act, 1889, § 18, s. 5.

(*m*) Defined, § 742.

(*n*) § 295, and Schedule XII.

(*o*) § 355.

(*p*) Int. Act, 1889, § 18, s. 1.

(*q*) § 268, s. 2.

have effect without as well as within British India (r) as if enacted by this Act.

(3.) Provided that any such Act shall be of no effect under this section, unless it be reserved for the signification of Her Majesty's pleasure thereon, or contain a suspending clause providing that the Act shall not come into operation until Her Majesty's pleasure thereon has been publicly signified in British India (r).

(r) Int. Act, 1889, § 18, s. 4.

PART IV.

1854 = 17 & 18 Vict. c. 104.

1883 = 46 & 47 Vict. c. 41.

Int. Act, 1889 = Interpretation Act, 1889 (52 & 53 Vict. c. 63).

The marginal references are to the sections of the old statutes reproduced.

PRELIMINARY NOTE TO PART IV.

FISHING BOATS.

THE law relating to fishing boats is not adapted to the understanding of fishermen.

The widest definition of "fishing boat" is that used in § 373, which requires fishing boats to be registered. It applies to the British Islands, and includes all fishing boats, whether used for profit or not. This appears to be one of the express provisions applying the Act to Scotland, referred to in § 372, though Scotland is not expressly mentioned, as in § 389. In the case of fishing boats over 15 tons, with sails, this obligation to register is in addition to the obligation to register under Part I. §§ 2, 3, 91. The obligation does not apply to British possessions (§ 372), or to certain ships engaged in sea fisheries (§ 744). As several later clauses (*e.g.* § 375) apply to "fishing boats entered on the fishing boat register, whether used for

profit or not," this widest definition is not confined in its operation to § 373.

The definition in § 370, which is the general definition for this Part, excludes boats not used for profit.

It does not apply to Scotland or British possessions (§ 372), and the provisions from § 373 to § 391, excepting those coming under the wider definition above, are governed by it.

A second set of provisions (§§ 392-398) only apply to fishing boats, as defined in § 370, of over 25 tons burden.

A third set of provisions (§§ 399-417) only apply to fishing boats being trawlers of over 25 tons burden, including tenders or carriers to fishing boats (§ 369, s. 4), and in one case (§ 417) applying to all fishing boats.

As regards Scotland, this Part of the Act, with the exception of § 373, *et seq.*, and § 389, does not apply (§ 372), and in Scotland fishing boats, presumably those registered at Scotch ports of registry, whether or not exclusively employed in fishing on the coasts of the United Kingdom, are governed by the same provisions of Part II. as apply to lighthouse ships and pleasure yachts (§§ 263, s. 4; 262). Certain provisions of Part II. apply to fishing boats exclusively employed in fishing on the coasts of the United Kingdom (§ 263, s. 1); certain portions, being Part II. less the provisions mentioned in § 263, s. 2, apply to fishing boats, whether exclusively employed in fishing on the coasts of the United Kingdom or not.

The effect of § 744 is not to make the colonial boats therein mentioned fishing boats; for Part IV. does not apply to British possessions (§ 372), but to exclude them from the class of foreign-going ships.

The collision regulations apply to fishing boats, being ships (cf. § 418); the rules for life-saving appliances do not (cf. § 427, s. 3). As to the powers of naval courts, see § 486.

PART IV.

ARRANGEMENT OF SECTIONS.

FISHING BOATS.

Application of Part IV., &c.

Section.

- 369. Application of Part. IV. (p. 284).
- 370. Definitions: "Fishing boat;" "Second hand;" "Voyage" (p. 285).
- 371. Ascertainment of tonnage of fishing boat (p. 286).
- 372. Extent of Part IV. (p. 286).

(I.) PROVISIONS APPLYING TO ALL FISHING BOATS AND TO THE WHOLE FISHING SERVICE.

Fishing Boats' Register.

- 373. Registry of British fishing boat (p. 286).
- 374. Effect of registry of fishing boat (p. 288).
- 375. Rules as to boats and life-buoys of fishing boats (p. 289).

Discipline.

- 376. Offences by seamen and apprentices (p. 290).
- 377. Civil right unaffected by criminal provisions (p. 293).
- 378. Application of forfeitures (p. 293).
- 379. Deserters and others may be sent back to their boats (p. 294).
- 380. Apprehension of seamen guilty of certain offences (p. 294).
- 381. Dealing with seaman who refuses to proceed to sea, &c. (p. 295).
- 382. Notice by seaman that he intends to absent himself (p. 296).
- 383. Calculation of wages (p. 296).
- 384. Facilities for proving desertion so far as concerns forfeiture of wages (p. 297).

Provisions as to Deaths, Injuries, Ill-treatment, Punishments, and Casualties in Fishing Boats.

- 385. Record and report of death, injury, ill-treatment, punishment, casualties, &c. (p. 297).

Section.

386. Inquiry as to death, injury, ill-treatment, punishment, &c.
(p. 298).

Settlement of Disputes.

387. Decision of disputes by superintendent (p. 299).

Provisions for ascertaining Profits of Fishing Boats.

388. Accounts to be rendered by owners (p. 299).

Agreements for Fishing Vessels in Scotland.

389. Agreements for fishing vessels in Scotland (p. 300).

Fees and Control of Superintendents.

390. Fees payable on engagements and discharges (p. 301).
391. Control of Board of Trade (p. 301).

(II.) PROVISIONS APPLYING TO ALL FISHING BOATS OF TWENTY-FIVE TONS TONNAGE AND UPWARDS.

Apprenticeship and Agreements with Boys.

392. Restriction on apprenticeships and agreements in the case of young boys (p. 301).
393. Boys to be properly apprenticed or have proper agreements (p. 302).
394. Assistance by superintendents (p. 302).
395. Apprenticeships and agreements with boys to be made before superintendent (p. 302).
396. Enforcement by superintendents of indentures or agreements (p. 304).
397. Powers of superintendent under indenture or agreement (p. 304).
398. Prohibition on taking money for apprenticeships and boys' agreements (p. 304).

(III.) PROVISIONS APPLYING TO TRAWLERS.

Engagement of Seamen.

399. Agreements with crew (p. 305).
400. Form, period, and condition of agreement (p. 305).
401. Mode of entering into agreements (p. 306).
402. Agreements by owner or for service in two or more fishing boats (p. 307).
403. Fishing boats' running agreements (p. 307).
404. Endorsement of engagements and discharge on running agreements (p. 307).
405. Report of crew (p. 308).
406. Statement of change of crew in case of running agreements (p. 308).

Section.

407. Alterations, &c., in agreements to be attested (p. 309).

408. Offences as to agreements with the crew (p. 309).

Payment of Wages and Discharge of Seamen.

409. Account of wages (p. 309).

410. Certificate of discharge (p. 310).

411. Compensation to seamen improperly discharged (p. 310).

412. Provision as to discharge, &c., to apply in the case of any sort of agreement (p. 311).

Certificates of Skippers and Second Hands.

413. Skippers and second hands to hold certificate of competency (p. 311).

414. Granting of certificate of competency (p. 312).

415. Certificate of service (p. 312).

416. Registers of certificated skippers and second hands (p. 313).

Conveyance of Fish from Trawlers.

417. Board of Trade regulations as to conveyance of fish from trawlers (p. 314).

1854 = 17 & 18 Vict. c. 104.

1883 = 46 & 47 Vict. c. 41.

Int. Act, 1889 = Interpretation Act, 1889 (52 & 53 Vict. c. 63).

The marginal references are to the sections of the old statutes reproduced.

PART IV.

FISHING BOATS (a).

Application of Part IV., &c. (b).

Applica-
tion of
Part IV.
1883, ss. 3,
52.

369.—(1.) This Part of this Act relates partly—

(a.) to all fishing boats (a) and to the whole fishing service (§§ 373–391); and partly

(b.) to all fishing boats (a) of twenty-five tons tonnage and upwards (§§ 392–398); and partly

(c.) to fishing boats (a) being trawlers (c) of twenty-five tons tonnage and upwards (d), and where so expressly provided, to fishing boats (a) being trawlers (c) of whatever tonnage.

(2.) The Board of Trade may, by order published in the London Gazette—

(a.) exempt from the date in the order mentioned, any class of such trawler or trawlers (e) belonging to any port (f) from the whole or any portion of this Part of this Act, and

(a.) Defined, § 370.

(b.) See Preliminary Notes to this Part and to Part II., and § 263.

(c.) “Trawlers” are not defined in

this Part.

(d.) §§ 399–417; and see § 369, s. 4.

(e.) § 369, s. 1 (c.).

(f.) Defined, § 742.

(b.) extend all or any of the provisions of this Part of this Act to any fishing boats (*g*) referred to in the order, and may revoke or alter any such order by an order published in like manner, but such order shall not extend to any of the provisions relating to the fishing-boat register (*h*), or to the boats and life buoys to be carried on fishing boats (*i*).

(3.) The Board of Trade may, before making any order under this section, institute such inquiry, as in their opinion may be required for enabling them to make the order, by such person as the Board may appoint, and the person so appointed shall for the purpose of the inquiry have all the powers of a Board of Trade inspector under this Act (*j*).

(4.) The provisions of this Act with respect to fishing boats being trawlers (*k*) shall, save as otherwise expressly provided, apply to vessels employed (*l*) as tenders or carriers to fishing boats (*g*) or for the purpose of collecting and conveying to the land the catch of fishing boats (*g*).

370. In this Part of this Act, unless the context otherwise requires—

The expression "fishing boat" means a vessel of whatever size, and in whatever way propelled, which is for the time being employed in sea fishing or in the sea-fishing service, but save as otherwise expressly provided, that expression shall not include a vessel used for catching fish otherwise than for profit.

The expression "second hand" means, with respect to a fishing boat (*g*), the mate or person next to the skipper in authority or command on board the boat.

The expression "voyage" shall mean a fishing trip commencing with a departure from a port (*m*) for the purpose of fishing, and ending with the first return to a port (*m*) thereafter upon the conclusion of the trip, but a return due to distress only shall not be deemed

Definitions:
1883, ss.
3, 18.
"Fishing
boat;"

(*g*) Defined, § 370.

(*h*) §§ 373, 374.

(*i*) § 375.

(*j*) §§ 728-730.

(*k*) §§ 399-417.

(*l*) Cf. § 417.

(*m*) Defined, § 742.

to be a return, if it is followed by a resumption of the trip.

Ascertainment of tonnage of fishing boat. 1883, s. 3. 50 Vict. sess. 2, c. 4, s. 2. **371.**—(1.) The tonnage of a fishing boat(*n*) for the purpose of this Part of this Act shall be taken to be in the case of a steam trawler her gross tonnage(*o*), but in any other case her registered tonnage(*o*).

(2.) Where a fishing boat(*n*) is registered under Part I. of this Act(*p*), her gross or register tonnage(*o*) as ascertained for the purpose of that registry shall be her gross or register tonnage for the purpose of this Part of this Act.

(3.) Where a fishing boat(*n*) is not so registered(*p*) a certificate signed by a surveyor of ships(*q*) under this Act stating her gross or register tonnage(*o*), ascertained as in the case of a ship registered under Part I. of this Act(*o*), shall be conclusive of that tonnage.

Extent of Part IV. 183, s. 18. 50 Vict. sess. 2, c. 4, s. 13. **372.** This Part of this Act shall not, except where otherwise expressly provided(*r*), apply to Scotland(*s*), or to any British possession(*t*).

(I.) PROVISIONS APPLYING TO ALL FISHING BOATS(*n*) AND TO THE WHOLE FISHING SERVICE.

The following sections shall apply to all fishing boats(*n*) and the whole fishing service:—

Fishing Boats Register.

Registry of British fishing boat. 31 & 32 Vict. c. 45, ss. 5, 22, 23. 46 & 47 Vict. c. 22, s. 8. **373.**—(1.) This section shall apply to the British Islands(*u*), and to all British(*x*) fishing boats, including those used otherwise than for profit, and the expression “fishing boat” in this section shall be construed accordingly(*y*).

(2.) Subject to any exemptions made by the regulations under this section, every fishing boat(*z*) shall be lettered

(*n*) Defined, § 370.

(*o*) § 78.

(*p*) §§ 2, 3.

(*q*) §§ 6, 724.

(*r*) See 373, s. 1.

(*s*) § 263, s. 8 applies Part II. to Scotch fishing boats.

(*t*) Int. Act, 1889, § 18, s. 2.

(*u*) Ibid. § 18, s. 1.

(*x*) Includes Scotland.

(*y*) This is wider than the definition in § 370; and apparently applies to Scotland. Cf. § 372.

(*z*) § 373, s. 1.

and numbered and have official papers, and shall for that purpose be entered in the fishing-boat register (*z*).

(3.) If a fishing boat (*a*) required to be so entered is not so entered, she shall not be entitled to any of the privileges or advantages of a British fishing boat (*b*), but all obligations, liabilities, and penalties with reference to that boat, and the punishment of offences committed on board her, or by any persons belonging to her, and the jurisdiction of officers and courts, shall be the same as if the boat were actually so entered.

(4.) If a fishing boat (*a*) required to be entered in the fishing boat register is not so entered, and is used as a fishing boat (*a*), the owner (*c*) and skipper (*d*) of such boat shall each be liable, for each offence, to a fine not exceeding twenty pounds (*e*), and the boat may be detained (*f*).

(5.) Her Majesty, by Order in Council (*g*), may make regulations for carrying into effect and enforcing the entry of fishing boats in the fishing-boat register, and any convention with a foreign country relative to the registry, lettering, and numbering of fishing boats (*a*), which is for the time being in force by virtue of any statute, and may by such regulations—

(*a*.) adopt any existing system of registry or lettering and numbering of boats, and provide for bringing any such system into conformity with the requirements of this Act and of any such convention, and the regulations; and

(*b*.) define the boats or classes of boats to which the regulations or any of them are to apply, and provide for the exemption of any boats or classes of boats from the provisions of this section, and from the regulations or any of them; and

(*c*.) apply to the entry of fishing boats (*a*) in the fishing-

(*s*) As to sailing vessels, not exempted under § 3, this obligation is collateral to one to register under Part I. §§ 2, 3, 91.

(*a*) § 373, *s. 1*.

(*b*) This appears to relate to privileges and advantages under 31 & 32 Vict. c. 45, so far as not repealed, and

the Convention scheduled thereto.

(*c*) See notes to § 58.

(*d*) Cf. § 413.

(*e*) Procedure, §§ 680-684; fines how applicable, §§ 699, 716.

(*f*) § 692.

(*g*) § 738.

boat register, and to all matters incidental thereto, such (if any) of the enactments contained in this (*g*) or any Act relating to the registry of British ships, and with such modifications and alterations as may be found desirable; and

(*d.*) impose fines not exceeding twenty pounds for the breach of any such regulations which cannot be punished by the application of any of those enactments (*h*).

(6.) Section twenty-six of the Sea Fisheries Act, 1868 (*i*), and sections eleven to fourteen of the Sea Fisheries Act, 1883 (*k*), shall apply in like manner as if those sections referred to this section and an Order in Council (*l*) made thereunder, in substitution for sections twenty-two to twenty-four of the Sea Fisheries Act, 1868, and any Order in Council (*l*) made under those sections.

(7.) Section one hundred and twenty-six of the Customs Consolidation Act, 1876 (*m*), shall not apply to any fishing boat (*n*) entered in the fishing-boat register in pursuance of this Act.

Effect of
registry of
fishing
boat.
31 & 32
Vict. c. 45.
s. 24.
1883, s. 8.

374. In all legal proceedings against the owner (*o*) or skipper of, or any person belonging to, any boat entered in the fishing-boat register (*p*), either for an offence against the fishery regulations or regulations as to lights in the Sea Fisheries Act, 1868 (*q*), or for an offence against the Sea Fisheries Act, 1883 (*r*), or for the recovery of damages for injury done by such boat, the register shall be conclusive evidence that the persons entered therein at any date as owners of the boat were at that date owners thereof, and that the boat is a British sea-fishing boat (*s*): Provided that—

(*g*) Part I.

(*h*) Procedure, §§ 680-684; fines how applicable, §§ 699, 716.

(*i*) 31 & 32 Vict. c. 45. This section requires all sea-fishing boats within the exclusive limits of the British Islands, and British sea-fishing boats without those limits, to carry official papers, showing their nationality, under penalties and risk of detention.

(*k*) 46 & 47 Vict. c. 22. These sections give power to sea-fishing

officers to enforce these regulations as therein provided.

(*l*) § 738.

(*m*) 39 & 40 Vict. c. 36; provides for the Customs checking stores taken on board for a voyage.

(*n*) § 373, s. 1.

(*o*) See notes to § 58.

(*p*) Cf. § 373, ss. 1, 2.

(*q*) 31 & 32 Vict. c. 45.

(*r*) 46 & 47 Vict. c. 22.

(*s*) The effect of this section is to make the register conclusive

- (a.) this enactment shall not prevent any proceedings being instituted against any person not so entered who is beneficially interested in the boat(s); and
- (b.) this enactment shall not affect the rights of the owners among themselves, or the rights of any owner entered in the register against any person not so entered who is beneficially interested in the boat(s); and
- (c.) save as aforesaid, entry in the fishing-boat register (t) shall not confer, take away, or affect any title to or interest in any fishing boat (u).

375.—(1.) A fishing boat entered in the fishing-boat register (t), whether used for profit or not (t), shall not proceed to sea from any port (x) in the United Kingdom—

Rules as to boats and life buoys of fishing boats. 1854, ss. 292-294. 51 & 52 Vict. c. 24.

- (a.) if she is decked, unless she is provided according to her tonnage with boats duly supplied with all requisites for use, and not being fewer in number nor less in their cubic contents than is in that behalf specified in the Fifteenth Schedule to this Act for the class to which the fishing boat belongs; and
 - (b.) if she carries more than ten passengers (y), unless she is, in addition to the above boats, provided with two life buoys and provided either with a lifeboat furnished with all requisites for use, or has one of her boats rendered buoyant after the manner of a lifeboat;
- and such boats and life buoys shall be kept so as to be at all times fit and ready for use.

(2.) In any of the following cases—

- (a.) if any such fishing boat (z) proceeds to sea without being provided with such boats or life buoys; or
- (b.) if any such boat or life buoy is lost or rendered unfit for service in the course of the voyage through the wilful fault or negligence of the owner (s) or skipper (a); or
- (c.) if in case of any such boat or life buoy being

against persons on it that they are owners; it is not conclusive in their favour or in any one else's favour.

(s) See notes to § 58.

(t) Cf. § 373, ss. 1, 2.

(u) § 373, s. 1.

(z) Defined, § 742.

(y) Cf. definition in § 267, which, however, does not apply to this Part, and cases cited thereon.

(s) § 373, ss. 1, 2.

(a) Cf. § 413.

accidentally lost or injured in the course of the voyage the skipper (*a*) fails (*b*) without reasonable cause to replace or repair the same on the first opportunity; or (*d*.) if any such boat or life buoy is not kept so as to be at all times fit and ready for use;

then, if the owner (*c*) appears to be in fault, he shall for each offence be liable to a fine not exceeding one hundred pounds (*d*), and if the skipper (*a*) appears to be in fault, he shall for each offence be liable to a fine not exceeding fifty pounds (*d*).

(3.) A fishing boat (*e*) required under this section to be provided with boats and life buoys may be detained (*f*) until she is duly so provided.

Discipline.

Offences
by seamen
and ap-
prentices.
1883, s. 28.
50 Vict.
sess. 2,
c. 4, s. 4.

376.—(1.) If a seaman (*g*) lawfully engaged to serve in any fishing boat (*h*), or an apprentice (*i*) in the sea-fishing service, commits any of the following offences, that seaman (*g*) or apprentice (*i*) shall be punished summarily (*k*) as follows:—

(*a*.) For the offence of desertion (*l*),—he shall be liable to forfeit all or any part of the effects he leaves on board, and all or any part of the wages (*g*) which he has then earned (*m*), and to satisfy any excess of wages (*g*) paid by the skipper (*a*) or owner of the fishing boat (*h*) from which he deserts to any substitute engaged in his place at a higher rate of wages (*g*) than the rate stipulated to be paid to him (*n*):

(*b*.) For the offence of absence without leave (*o*), that is to say, for neglecting or refusing without reasonable cause to join or to proceed to sea in his fishing boat (*h*), or for being absent without leave at any time within

(*a*) Cf. § 413.

(*b*) Includes refusal; § 742.

(*c*) § 58 and notes.

(*d*) How recovered, §§ 680-684; how applicable, §§ 699, 716.

(*e*) § 373, ss. 1, 2.

(*f*) § 692.

(*g*) Defined, § 742.

(*h*) § 370.

(*i*) § 393.

(*k*) Procedure, §§ 680-684.

(*l*) Leaving the boat without the intention to return; § 221 and notes. As to proof of desertion, see § 384, s. 1.

(*m*) Application of the forfeiture, § 378; the skipper is also liable, § 377, s. 2.

(*n*) He may also be conveyed on board the boat; § 379.

(*o*) The skipper is also liable; § 377, s. 2.

twenty-four hours of his boat's sailing from any port (*p*), either at the commencement or during the progress of the engagement, or for being absent at any time without leave and without sufficient reason from his boat,—if the offence does not amount to desertion (*q*), or is not treated as such by the skipper (*r*), he shall be liable to forfeit a sum not exceeding two days' wages (*p*), and in addition for every twenty-four hours of absence, either a sum not exceeding four days' wages (*p*), or any expenses properly incurred in respect of a substitute (*s*):

- (c.) For the offence of wrongfully quitting the boat (*t*), that is to say, for quitting the boat without leave after her arrival in port, and before she is placed in security,—he shall be liable to forfeit a sum not exceeding two weeks' wages (*s*):
- (d.) For the offence of wilful disobedience, that is to say, for wilfully disobeying any lawful command during the engagement,—he shall be liable to imprisonment (*u*) for any period not exceeding four weeks, and also to forfeit a sum not exceeding two days' wages (*x*):
- (e.) For the offence of continued breach of duty, that is to say, for continued wilful disobedience to lawful commands during the engagement, or continued wilful omission to do his duty during the engagement,—he shall be liable to imprisonment (*u*) for any period not exceeding twelve weeks, and also to forfeit for every twenty-four hours' continuation of the offence either a sum not exceeding six days' wages (*p*) or any expenses properly incurred in respect of a substitute (*x*):
- (f.) For the offence of assault, that is to say, for assaulting any skipper (*r*) or second hand (*y*),—he shall be liable to imprisonment (*u*) for a period not exceeding twelve weeks:

(*p*) Defined, § 742.

(*q*) See note (*l*), p. 290.

(*r*) Cf. § 413.

(*s*) Forfeiture of a share of proceeds; § 383, s. 3. He may also be conveyed on board the boat; § 379.

(*t*) The skipper is also liable § 377, s. 2.

(*u*) With or without hard labour; s. 6.

(*x*) Forfeiture of a share of proceeds; § 383, s. 3.

(*y*) Defined, § 370.

(g.) For the offence of unlawful combination, that is to say, for combining with any one or more of the crew(y) to disobey lawful commands, or to neglect duty, or to impede the navigation of the boat, or the progress of the trip,—he shall be liable to imprisonment(z) for a period not exceeding twelve weeks :

(h.) For the offence of wilful damage(a), that is to say, for wilfully damaging the boat or embezzling or wilfully damaging any of her stores or cargo,—he shall be liable to forfeit(b) a sum equal in amount to the loss thereby sustained, and also to imprisonment(z) for a period not exceeding twelve weeks :

(i.) For the offence of smuggling(a), that is to say, for any act of smuggling of which he is convicted and which caused loss or damage to the skipper(c) or owner(d),—he shall be liable to forfeit a sum sufficient to reimburse that loss or damage.

(2.) A skipper(c) shall be liable to punishment for the said offences of desertion(e), absence without leave(f), wrongfully quitting the boat(g), wilful damage(h), and smuggling(i), as if he were a seaman.

(3.) The court before whom any skipper(c), seaman(j), or apprentice(k) is convicted of an offence under this section may order any money forfeited for that offence to be deducted from his wages, and (if they think fit) may order the forfeiture to be applied for the benefit of the person by whom the wages are payable, or of the person injured by the commission of the offence.

(4.) The provisions of this section relating to the offences of wilful disobedience(l), continued breach of duty(m), assault(n), and unlawful combination(o) shall extend to apprentices in the sea-fishing service(k), and to sea-fishing

(y) Note to § 113.

(z) With or without hard labour;

§ 6.

(a) The skipper is also liable;
§ 377, s. 2.

(b) Forfeiture of a share of proceeds; § 383, s. 3.

(c) Cf. § 413.

(d) § 58 and notes.

(e) § 376, s. 1 (a.).

(f) § 376, s. 1 (b.).

(g) Ibid. s. (a.).

(h) Ibid. s. (h.).

(i) Ibid. s. (i.).

(j) Defined, § 742.

(k) § 393.

(l) Sub-s. 1 (d.).

(m) Sub-s. 1 (e.).

(n) Sub-s. 1 (f.).

(o) Sub-s. 1 (g.).

boys as herein-after defined (*p*), whether on shore or on board.

(5.) A seaman (*q*) or apprentice (*p*) shall not be relieved by his refusal or neglect to go to sea or by his desertion from being liable to punishment under this section for an offence of wilful disobedience (*r*), continued breach of duty (*s*), or unlawful combination (*t*), and in addition to any such punishment shall also be liable to be punished for the offence of desertion (*u*) or absence without leave (*x*).

(6.) Any imprisonment under this section may be with or without hard labour.

377.—(1.) Nothing in the last preceding section shall take away or limit any remedy by action or before a court of summary jurisdiction which an owner (*y*) or skipper would otherwise have for any breach of contract in respect of the matters constituting an offence under that section, but no owner or skipper shall be compensated more than once in respect of the same damage. Civil right unaffected by criminal provisions. 1883, ss. 29, 54.

(2.) Any question concerning the forfeiture of or deductions from the wages (*z*) of a seaman (*q*) or apprentice (*p*) in the sea-fishing service may be determined in any proceeding lawfully instituted with respect to those wages, notwithstanding that the offence in respect of which the question arises, though by Act made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

378. All effects (*q*) and wages (*q*) which are, under this Part of this Act, forfeited for desertion (*u*) shall be applied first in reimbursing the expenses occasioned by such desertion to the skipper or owner (*y*) of the boat, and, subject to that reimbursement, shall be paid into the Exchequer, and carried to the Consolidated Fund; and any court having cognizance of any proceedings in relation thereto may Application of forfeitures. 1883, s. 30.

(*p*) § 393, s. 1.

(*q*) Defined, § 742.

(*r*) Sub-s. 1 (*d*).

(*s*) Sub-s. 1 (*e*).

(*t*) Sub-s. 1 (*g*).

(*u*) Sub-s. 1 (*a*).

(*x*) Sub-s. 1 (*b*).

(*y*) § 58 and notes.

(*z*) See § 376.

order the same to be applied accordingly, and where the effects (*b*) forfeited do not consist of money, may order the same to be sold, and the proceeds of the sale to be applied in manner aforesaid.

Deserters
and others
may be
sent back
to their
boats.
1883, s. 31.

379. Whenever any seaman (*b*) or apprentice (*c*) is brought before any court charged with the offence (under this Part of this Act) of desertion (*d*) or of absence without leave (*e*), or with otherwise absenting himself from his boat without leave (*f*), the court may at the request of the owner (*g*) or skipper or his agent, in addition to, or in lieu of, imposing any punishment to which he may be liable, cause him to be conveyed on board for the purpose of fulfilling his engagement, or deliver him to the skipper to be so conveyed by him, and may order any costs or expenses properly incurred to be paid by the offender, and if necessary to be deducted from any wages (*b*) which he has then earned, or which he may thereafter earn under his engagement (*h*).

Apprehen-
sion of
seamen
guilty of
certain
offences.
1883, s. 32

380.—(1.) Any of the following officers, namely—

(*a*.) a superintendent (*i*); or

(*b*.) the principal Board of Trade officer at a port or district, or his deputy;

may, on the information (made, if the officer so require, on oath) of the owner (*g*), skipper, second hand (*k*), or agent of a fishing boat (*k*), issue a warrant under his hand in the form approved by the Board of Trade for the apprehension of any seaman (*b*) or apprentice (*c*) charged with the offence (under this Part of this Act) of desertion (*d*), absence without leave (*e*), wilful disobedience (*l*), continued breach of duty (*m*), or unlawful combination (*n*).

(2.) Such warrant shall be executed by any constable of the county, borough, or place, where the offender may be, and shall continue in force for ninety-six hours from the

(*b*) Defined, § 742.

(*c*) § 393.

(*d*) § 376, s. 1 (*a*.).

(*e*) § 376, s. 1 (*b*.).

(*f*) § 376, s. 1 (*c*.).

(*g*) § 58 and notes.

(*h*) This does not apply if notice

has been duly given under § 382.

(*i*) §§ 247, 742,

(*k*) Defined, § 370.

(*l*) § 376, s. 1 (*d*.).

(*m*) § 376, s. 1 (*e*.).

(*n*) § 376, s. 1 (*g*.).

time endorsed on the warrant by the officer issuing the same.

(3.) The seaman (*o*) or apprentice (*p*) when apprehended shall be brought by the constable without delay before some officer by whom a warrant may be issued under this section (*q*), and that officer shall then and there inquire into the case, and if the explanation of the seaman (*o*) or apprentice (*p*) is, in his opinion, sufficient, shall discharge him, but, if not, shall order him to join his boat and resume his duty.

(4.) If the seaman (*o*) or apprentice (*p*) refuses to obey that order, the officer shall order him to be detained and to be brought with convenient speed before a court of summary jurisdiction (*r*), and that court shall hear and determine in due course of law the charge made against him by the information on which he has been apprehended.

(5.) An information laid before an officer under this section (*q*) need not be reduced to writing.

(6.) An officer acting under this section (*q*) may take the evidence (if he thinks fit, on oath) of any person other than the seaman (*o*) or apprentice (*p*) charged who is able and willing to give information as to the matters in question, and for that purpose shall have the powers of a Board of Trade inspector under this Act (*s*).

(7.) A warrant issued under this section shall be valid if it is in the form approved by the Board of Trade and filled in reasonably in accordance with the directions contained in the form, and is duly signed, and shall not be invalidated by the officer who issued it dying or ceasing to hold office.

381. If a seaman (*o*) or apprentice (*p*) engaged or liable to serve on board any fishing boat (*t*) neglects, or refuses to join, or deserts from (*u*), or refuses to proceed to sea in, or absents himself without leave (*x*) from that fishing boat, the skipper, owner (*y*), or agent of the boat may, with

Dealing with seaman who refuses to proceed to sea, &c.
1883, s. 32.

(*o*) Defined, § 742.

(*p*) § 393.

(*q*) § 380, s. 1.

(*r*) Int. Act, 1889, § 13, s. 12.

(*s*) §§ 728-730.

(*t*) § 370.

(*u*) 376, s. 1 (*a*).

(*x*) § 376, s. 1 (*b*).

(*y*) Notes to § 58.

or without the assistance of the local constables (who shall give their assistance in these cases when required by the skipper, owner (*z*), or agent) take the seaman (*a*) or apprentice (*b*) before some officer by whom a warrant can be issued for his apprehension under this Part of this Act (*c*), who shall deal with him as if apprehended under such a warrant.

Notice by
seaman
that he
intends to
absent
himself.
1883, s. 33.
50 Vict.
sess. 2, c. 4,
s. 4.

382.—(1.) If a seaman (*a*) (not being a sea-fishing boy as defined by this Act (*d*)) or a skipper intends to absent himself from his fishing boat (*e*) or his duty, he may, when not at sea, give notice of his intention, if a skipper to the owner (*z*) of the boat or the owner's agent, and if a seaman (*a*) either to the owner (*z*) or to the skipper, not less than forty-eight hours before the time at which he ought to be on board.

(2.) When such notice is duly given the skipper or seaman shall not be compelled to go or be brought on board for the purpose of proceeding with the voyage or engagement (*f*).

Calcula-
tion of
wages.
1883, s. 34.
50 Vict.
sess. 2, c. 4,
s. 4.

383.—(1.) The wages (*a*) of a skipper, seaman (*a*), or apprentice (*b*) of a fishing boat shall accrue from day to day.

(2.) When wages (*a*) are contracted for by the voyage or trip or the season or by the share, and not by a stated period of time, the amount accruing from day to day shall be an amount equal to the wages for the whole voyage or trip or season, or the whole share (as the case may be), divided by the number of days occupied in the voyage or trip or season, but a skipper, seaman (*a*), or apprentice (*b*) shall not be entitled to more than what his share of the profits or catch made during the period he has actually served may or would have amounted to.

(3.) Where the whole time spent in the voyage or trip does not exceed the period for which the wages are to be

(*) Notes to § 58.
(a) Defined, § 742.
(b) § 393.
(c) § 380, s. 1.

(d) § 393, s. 1.
(e) § 370.
(f) Cf. § 379.

forfeited, the forfeiture shall extend to the whole wages or share (*g*).

384.—(1.) Whenever a question arises before a court (*h*) whether the wages (*h*) of any skipper, seaman (*h*), or apprentice (*i*) of a fishing boat (*k*) are forfeited for desertion (*l*), it shall be sufficient for the person insisting on the forfeiture to show that the skipper, seaman (*h*), or apprentice (*i*) was duly engaged and belonged to the boat, and left the boat before the completion of the voyage or engagement.

Facilities for proving desertion so far as concerns forfeiture of wages. 1883, s. 35. 50 Vict. sess. 2, c. 4, s. 4.

(2.) The desertion (*l*) shall thereupon, so far as relates to any forfeiture of wages, be deemed to be proved, unless the skipper, seaman, or apprentice can produce a proper certificate of discharge (*m*), or can otherwise show to the satisfaction of the court that he was not guilty of desertion (*n*).

Provisions as to Deaths, Injuries, Ill-treatment, Punishments, and Casualties in Fishing Boats (o).

385.—(1.) The skipper of a fishing boat (*k*) shall keep a record of the following occurrences, namely—

Record and report of death, injury, ill-treatment, punishment, casualties, &c. 1883, ss. 43, 44.

- (i.) of every death, injury, ill-treatment, or punishment of any member of his boat's crew (*p*) while at sea or of any person on board his boat; and
- (ii.) of every casualty to his fishing boat (*k*) or any boat belonging to her.

(2.) The skipper shall produce the record so kept to any superintendent (*q*) when required by him, and shall also send the same to the superintendent (*q*) at the port (*h*) to which the boat belongs (*r*) at such periods as the Board of Trade require by any directions endorsed on the forms approved by them.

(3.) If any such occurrence has happened in the case of

(*g*) Cf. § 376.

(*h*) Defined, § 742.

(*i*) § 393.

(*k*) § 370.

(*l*) § 376, s. 1 (*a*).

(*m*) §§ 128, 410.

(*n*) As by showing unseaworthi-

ness in the boat; § 463.

(*o*) As to application, see Preliminary Note to this Part.

(*p*) Note to § 113.

(*q*) §§ 247, 742.

(*r*) § 13.

a fishing boat (*r*), the skipper of the boat shall make to the superintendent (*s*) at the port (*t*) where his boat's voyage ends, within twenty-four hours of the boat's arrival at that port, a report of the occurrence.

(4.) The record and report under this section shall be in such form and contain such particulars as the Board of Trade require.

(5.) If a skipper fails (*u*) without reasonable cause to comply with any requirement of this section, he shall for each offence be liable to a fine not exceeding twenty pounds (*x*).

386.—(1.) Where any such occurrence as in the last preceding section mentioned happens or is supposed to have happened, the superintendent (*s*) at or nearest to the port (*t*) at which the fishing boat arrives after the occurrence, or to which the boat belongs (*y*), may inquire into the cause and particulars of the occurrence, and, if a report as to the occurrence is made to him in pursuance of the said section (*z*), may make on the report (*z*) an endorsement either that in his opinion the particulars in the report (*z*) are true, or otherwise to such effect as in his opinion his information warrants.

(2.) For the purpose of the inquiry, a superintendent (*s*) shall have all the powers of a Board of Trade inspector under this Act (*a*).

(3.) If in the course of the inquiry it appears to the superintendent (*s*) that any such occurrence as aforesaid has been caused or was accompanied by violence or the use of any improper means, he shall report the matter to the Board of Trade, and shall also, if the emergency of the case in his opinion so requires, take immediate steps for bringing the offender to justice, and may for that purpose, if in his discretion he thinks it necessary, cause him to be arrested, and thereafter dealt with in due course of law.

(*r*) Defined, § 370.

(*s*) §§ 247, 742.

(*t*) Defined, § 742.

(*u*) Includes refusal; § 742.

(*x*) Procedure, §§ 680-684; ap-

plication, §§ 699, 716.

(*y*) § 13.

(*z*) § 385, s. 3.

(*a*) §§ 728-730.

Inquiry as to death, injury, ill-treatment, punishment, &c. 1883, s. 45.

Settlement of Disputes (a).

387.—(1.) A superintendent (b) shall inquire into, hear, and determine any dispute, either between the owner of a fishing boat (c) and the skipper or a seaman (d) of the boat, or between the skipper of a fishing boat and any seaman (d) of the boat concerning—

Decision of disputes by superintendent, 1883, ss. 46, 47. 50 Vict. ss. 2, c. 4, s. 5.

(i.) the skipper's or seaman's wages (d) or his share in the profits of the voyage or trip or a fishing catch, or any deduction therefrom; or

(ii.) the skipper's or seaman's engagement, service, or discharge; or

(iii.) the cost, quantity, or quality, of the provisions supplied to the crew (e);

if any party to the dispute calls on him to decide it, and his decision thereon shall be final and binding on all persons.

(2.) The decision shall, on the request of any party to the dispute, be put into writing, and any such written decision, if purporting to be signed by the superintendent (b), shall be admissible in evidence in manner provided by this Act (f).

(3.) The decision may be enforced by any justice of the peace, within whose jurisdiction the person or goods of any one against whom the decision is given may be found, in the same manner as if the decision were an order made by a court of summary jurisdiction (g), and a skipper or seaman may also recover any sum adjudged due to him by any such decision as if it were wages (h).

(4.) A superintendent (b) for the purpose of hearing and determining any such dispute shall have all the powers of a Board of Trade inspector under this Act (i).

Provisions for ascertaining Profits of Fishing Boats (a).

388.—(1.) Where a skipper or any other member of the crew (e) of a fishing boat (c) is paid by a share in the catch,

Accounts to be rendered by owners. 1883, s. 25. 50 Vict. ss. 2, c. 4, ss. 4, 6.

(a) For application, see preliminary Note to this Part.

(b) §§ 247, 742.

(c) Defined, § 370.

(d) Defined, § 742.

(e) § 113, note.

(f) § 695.

(g) Int. Act, 1889, § 13, s. 12.

(h) §§ 164-167.

(i) §§ 728-730.

the owner (*i*) of the boat shall render to him a full and true account, in a form approved by the Board of Trade, showing in detail the amounts for which the fish have been sold, and all deductions (*k*) from those amounts which are chargeable in any respect to the men who are paid by share, and are made either in respect of stores supplied to the fishing boat (*l*), or provisions furnished to the crew (*m*) or otherwise.

(2.) If the owner (*i*) of a fishing boat (*l*) fails (*n*) without reasonable cause to comply with the foregoing provisions of this section, he shall for each offence be liable to a fine not exceeding five pounds (*o*).

(3.) If a dispute arises as to the share of the catch, the skipper or seaman (*p*) shall be entitled to inspect at all reasonable times the owner's (*i*) accounts and books relating to the catch, and if the owner (*i*) of a fishing boat (*l*) upon demand fails (*n*) without reasonable cause to submit his accounts or books at a reasonable time to such inspection, he shall for each offence be liable to a fine not exceeding twenty pounds (*o*).

Agreements for Fishing Vessels in Scotland (q).

Agreements for fishing vessels in Scotland. 36 & 37 Vict. c. 15, s. 8. 1883, s. 35.

389.—(1.) The owner (*i*) or skipper of any British (*r*) vessel engaged in fishing off the coast of the United Kingdom may enter into an agreement with any person employed on that vessel that that person shall be remunerated wholly by a share in the profit of the fishing adventure.

(2.) Every such agreement shall be in writing, and shall be signed by the contracting parties in the presence of a superintendent (*s*).

(3.) The superintendent (*s*) shall, before the agreement is signed, read and (if necessary) explain the same to the

(*i*) Notes to § 58.

(*k*) Cf. § 132.

(*l*) Defined, § 370.

(*m*) Note to § 113.

(*n*) Includes refusal; § 742.

(*o*) Procedure, §§ 680-684; ap-

plication, §§ 699, 716.

(*p*) Defined, § 742.

(*q*) As to Scotland, see §§ 263, s. 3, and § 372.

(*r*) Note to § 1.

(*s*) §§ 247, 742.

contracting parties, and shall attest (*t*) the signature of the agreement and certify that it has been read to, and agreed to, by the contracting parties.

(4.) Any such agreement, if made in manner provided by this section, shall be valid and binding on all the contracting parties, and shall have effect notwithstanding anything in Part II. of this Act (*u*).

(5.) This section shall only apply to Scotland (*x*).

Fees and Control of Superintendents (y).

390.—(1) The Board of Trade may fix the fees to be payable upon engagements or discharges of members of the crews (*z*) of fishing boats (*a*) when effected before a superintendent (*y*); and a superintendent may refuse to proceed with any such engagement or discharge unless the fee payable thereon has first been paid.

Fees payable on engagements and discharges. 50 Vict. sess. 2, c. 4, s. 11.

(2.) All fees so paid shall be carried to the credit of the Mercantile Marine Fund (*b*).

391. All superintendents (*y*) shall, in carrying into effect the provisions of this Part of this Act, other than those relating to the fishing-boat register (*c*), be subject to the control of and obey any directions given by the Board of Trade.

Control of Board of Trade. 1883, s. 11.

(II.) PROVISIONS APPLYING TO ALL FISHING BOATS (*a*) OF TWENTY-FIVE TONS TONNAGE AND UPWARDS (*d*).

The following sections shall apply to all fishing boats (*a*) of twenty-five tons tonnage and upwards.

Apprenticeship and Agreements with Boys (e).

392. A boy under the age of thirteen years shall not enter into any apprenticeship to the sea-fishing service or agreement with respect to that service, and an indenture of apprenticeship or agreement made contrary to this section shall be void.

Restriction on apprenticeships and agreements in the case of young boys. 1883, s. 6.

- (*t*) § 694.
- (*u*) Cf. §§ 156, 157.
- (*x*) As to Scotland, see §§ 263, 3, and § 372.
- (*y*) §§ 247, 742.
- (*z*) Note to § 113.
- (*a*) Defined, § 370.

- (*b*) § 676, s. 1 (*f*).
- (*c*) The directions in this case are given by the Queen in Council; § 373.
- (*d*) For application, see Preliminary Note to this Part.
- (*e*) See § 263, ss. 2, 3.

Boys to be properly apprenticed or have proper agreements. 1883, ss. 8, 12.

393.—(1.) A boy under the age of sixteen years shall not be taken to sea for the purpose of serving in any capacity connected with the sea-fishing service, unless he is bound by an indenture of apprenticeship (*f*) or agreement made in conformity with this Part of this Act (*f*), and a boy bound by any such agreement is in this Act referred to as a sea-fishing boy.

(2.) If any person (*g*) takes a boy to sea, or causes a boy to be taken to sea, in contravention of this section, that person shall be liable to a fine not exceeding twenty pounds (*h*).

(3.) Boards of guardians, in apprenticing boys to the sea-fishing service, shall not cause or permit any such apprenticeship to be made except in conformity with this Part of this Act (*f*).

1883, s. 8.

(4.) Nothing in this Part of this Act shall prevent the daily employment in a fishing boat (*i*) of any boy under the age of sixteen years, who is under no obligation to remain in that employment for a longer period than one day, and with whom no written agreement has been made.

Assistance by superintendents. 1883, s. 11.

394. All superintendents (*j*) shall give to persons desirous of making indentures of apprenticeship to the sea-fishing service or agreements under this Part of this Act (*f*), or of causing the same to be made, such assistance as may be in their power in reference thereto, and shall supply forms (*k*) of indentures or agreements at such reasonable rates (if any) as the Board of Trade may fix, and may receive such fees in respect of those indentures or agreements as the Board of Trade may fix (*l*).

Apprenticeships and agreements with boys to be made before superintendent. 1883, ss. 4, 5, 8, 11.

395.—(1.) Indentures of apprenticeship to the sea-fishing service, and agreements with boys under the age of sixteen years with respect to that service, shall be made before a superintendent (*i*) and be in accordance with this Act (*k*), and every such indenture or agreement not so made shall be void.

(*f*) § 395; form in Appendix.

(*g*) Includes corporations; Int. Act, 1889, §§ 2, 19.

(*h*) Procedure, §§ 680-684; application, §§ 699, 716.

(*i*) Defined, § 370.

(*j*) §§ 247, 742.

(*k*) See Note (*p*), p. 303.

(*l*) Fees go to the Mercantile Marine Fund; § 716.

(2.) A superintendent, before allowing any such indenture or agreement to be completed, shall satisfy himself—

(a.) that the indenture or agreement complies with all the requirements of this Part of this Act; and

(b.) that the master with whom the indenture or agreement is made is a fit person for the purpose; and

(c.) that the apprentice or boy (*l*) is not under the age of thirteen years (*m*), and is of sufficient health and strength; and

(d.) that the nearest relations of the apprentice or boy (*l*) or his guardians assent, in the case of an apprentice, to the apprenticeship, and to the stipulations in the indenture of apprenticeship, and in the case of a boy (*l*), to the stipulations of the agreement;

and shall make and sign an endorsement that he is so satisfied on the indenture or agreement.

(3.) Where there are no nearest relations or guardians, or where they cannot readily be found, or are not known, the superintendent (*n*) shall act as guardian for the occasion, and state in his endorsement that he has so acted.

(4.) The superintendent's endorsement shall be admissible in evidence in manner provided by this Act (*o*).

(5.) The indentures of apprenticeship and agreements shall be in such form (*p*), and contain such covenants, provisions, stipulations, endorsements and certificates as are prescribed by Order in Council (*q*) made on the recommendation of the Board of Trade, and any directions given in the forms so prescribed shall be complied with.

(6.) The indentures and agreements shall be executed in triplicate, one of which shall be kept by the master, one by the boy, and one by the superintendent (*n*) before whom it is made.

(7.) All such indentures and agreements made in conformity with this Part of this Act, shall be exempt from stamp duty.

(*l*) § 393, s. 1.

(*m*) § 392.

(*n*) §§ 247, 742.

(*o*) § 695.

(*p*) The Act of 1893 contained

forms in the Schedule; this is repealed, and the forms are prescribed by an Order in Council of Dec. 14, 1894; see Appendix XIII.

(*q*) § 738.

Enforcement by superintendents of indentures or agreements. 1883, ss. 9, 10.

396.—(1.) Where an indenture of apprenticeship to the sea-fishing service(*r*), or any agreement with a sea-fishing boy(*r*), has been made before a superintendent(*s*) at a port(*t*), the superintendent(*s*) for the time being at that port may, by proper legal proceeding taken in his own name, enforce on behalf of the apprentice or boy against the master any stipulations in that indenture or agreement.

(2.) Where an apprentice or boy(*r*) is taken to sea from any port(*t*) under an indenture or agreement which is void(*u*), the superintendent(*s*) at that port(*t*), or if there is none the superintendent(*s*) at the nearest port(*t*), may, by proper legal proceedings taken in his own name, enforce, to such extent as he thinks just, on behalf of the apprentice or boy(*r*) against the master any stipulation in the void indenture or agreement which is in favour of the apprentice or boy.

(3.) Any sums recovered by a superintendent(*s*) under this section may, so far as necessary, be applied by him in payment of the costs of recovering the same.

Powers of superintendent under indenture or agreement. 1883, s. 10.

397. Where an indenture of apprenticeship to the sea-fishing service, or an agreement with a sea-fishing boy(*r*), is made before a superintendent(*s*) at any port(*t*), the superintendent(*s*) for the time being at that port shall have, and when necessary shall execute, all the powers given to the superintendent(*s*) by the indenture or agreement.

Prohibition on taking money for apprenticeships and boys' agreements. 1883, s. 7.

398. If any person(*x*)—

- (a) receives any money or valuable consideration from the person to whom an apprentice in the sea-fishing service is bound, or to whom a sea-fishing boy is bound by any agreement(*r*), or from any one on that person's behalf, or from the apprentice or boy or any one on the apprentice or boy's behalf, in consideration of the apprentice or boy being so bound; or
- (b) makes or causes any such payment to be made;

(*r*) § 393, s. 1.

(*s*) §§ 247, 742.

(*t*) Defined, § 742.

(*u*) §§ 392, 395, s. 1.

(*x*) Includes corporations; Int. Act, 1889, §§ 2, 19.

that person shall in respect of each offence be guilty of a misdemeanor (*y*), whether the apprentice or boy was or was not validly bound (*z*).

(III.) PROVISIONS APPLYING TO TRAWLERS (*a*).

The following sections shall apply only to fishing boats (*b*) being trawlers (*a*), and save as otherwise provided (*c*) only to fishing boats being trawlers of twenty-five tons tonnage and upwards (*d*).

Engagement (e) of Seamen (f).

399.—(1.) The skipper of every fishing boat (*b*) being a trawler (*a*) of twenty-five tons tonnage or upwards (*d*) shall enter into an agreement (in this Part of this Act called a fishing boat's agreement (*g*)), in accordance with this Part of this Act, with every seaman (*f*) whom he carries to sea as one of his crew from any port (*f*) in England or Ireland, and shall not carry to sea any seaman (*f*) with whom no such agreement has been entered into.

(2.) If a skipper acts in contravention of this section, he shall for each offence be liable to a fine not exceeding five pounds (*h*).

(3.) This section shall not apply in the case of a sea-fishing boy (*i*).

400.—(1.) A fishing boat's agreement (*k*) shall be in a form approved by the Board of Trade, and be dated at the time of the first signature thereof, and be signed by the skipper before a seaman (*f*) signs it.

(2.) A fishing boat's agreement (*k*) shall contain as terms thereof (*l*)—

(*a*) the nature and, as far as practicable, the duration of the intended voyage or engagement (*l*):

(*y*) Procedure, §§ 680–684.

(*z*) §§ 392, 395, s. 1.

(*a*) Not defined in Act.

(*b*) Defined, § 370.

(*c*) Cf. § 417, s. 6.

(*d*) § 371. The provisions also apply to tenders or carriers for trawlers; cf. § 369, s. 1.

(*e*) See § 263, s. 2.

(*f*) Defined, § 742.

(*g*) Cf. § 113.

(*h*) How recovered, §§ 680–684; how applicable, §§ 699, 716.

(*i*) § 393, s. 1; or to an apprentice, who is not a seaman; cf. § 742 and § 405.

(*k*) § 399, s. 1.

(*l*) See notes on the corresponding provisions as to the agreement with the crew; §§ 113, 114.

- (b) the number and description of the crew :
- (c) the time at which each seaman (*m*) is to be on board or to begin work :
- (d) the capacity in which each seaman (*m*) is to serve :
- (e) the remuneration which each seaman (*m*) is to receive, whether in wages or by share in the catch, or in both ways, and the time from which each seaman's remuneration is to commence :
- (f) a scale of the provisions to be furnished to each seaman (*m*) :
- (g) any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishment for misconduct, which the Board of Trade have approved as proper and the parties agree to adopt.

(8.) The fishing boat's agreement (*n*) shall be so framed as to admit of stipulations, to be adopted at the will of the skipper and seaman in each case, as to advance and allotment of wages, and may contain any other stipulations that are not contrary to law.

Mode of
entering
into agree-
ments.
1883, s. 14.

401.—(1.) A fishing boat's agreement (*n*) shall be signed by each seaman (*m*), and the skipper shall cause the agreement to be read over and explained to each seaman, or otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature (*o*).

(2.) When the crew is first engaged the agreement (*n*) shall be signed in duplicate, and one part shall be sent by the skipper to the superintendent (*p*) at the port (*m*) of departure and retained by him, and the other part shall be retained by the skipper, and shall contain a special place for the descriptions and signatures of substitutes, or persons engaged subsequently to the first departure of the fishing boat.

(3.) Where a substitute is engaged in the place of a seaman (*m*) who has signed the agreement (*n*), and whose

(*m*) Defined, § 742.
(*n*) § 399, s. 1.

(*o*) § 694.
(*p*) §§ 247, 742.

services are lost by death, desertion, failure to join, or other unforeseen cause, the skipper shall, before the fishing boat (*q*) puts to sea, if practicable, and if not as soon afterwards as possible, cause the agreement to be read over and explained to the substitute, and the substitute shall thereupon sign the same in the presence of the skipper who shall attest the signature (*r*).

402.—(1.) Fishing boats' agreements (*s*) may be made by the owner (*t*) (or if there are several owners the registered managing owner (*u*)) instead of by the skipper; and the provisions of this Part of this Act (*x*) with respect to fishing boats' agreements shall apply as if the owner were skipper.

Agreements by owner or for service in two or more fishing boats. 1883, s. 15.

(2.) Fishing boats' agreements (*s*) may be made for service either in a particular boat or in two or more boats belonging to the same owner, provided that in the latter case the names of the boats and the length and nature of the service, and the rates, periods, and method of payment are specified in the agreement.

403.—(1.) Fishing boats' agreements (*s*) may, if the voyages of the boat average less than six months in duration, be made to extend over two or more voyages or any number of weeks, and agreements so made are in this Part of this Act referred to as fishing boats' running agreements.

Fishing boats' running agreements. 1883, s. 16.

(2.) Fishing boats' running agreements (*y*) shall not extend beyond the next following thirtieth day of June or thirty-first day of December, or the first arrival of the boat at her port (*z*) of destination in the United Kingdom after that date, or the discharge of cargo consequent on that arrival.

404.—(1.) Where a fishing boat's running agreement (*y*) has been made for any boat, the skipper shall, on every return to a port (*z*) in the United Kingdom before the final termination of the agreement (*y*), make and sign an endorsement on the agreement, stating either that no engage-

Endorsement of engagements and discharge on running agreements. 1883, s. 17

(*q*) Defined, § 370.

(*r*) § 694.

(*s*) § 399, s. 1.

(*t*) Notes to § 58.

(*u*) § 59.

(*x*) §§ 399-408.

(*y*) § 403, s. 1.

(*z*) Defined, § 742.

ments or discharges of seamen (*a*) have been made or are intended to be made before the boat leaves port, or that all those made have been made as required by law (*b*).

(2.) If a skipper knowingly makes a false statement in any such endorsement, he shall for each offence be liable to a fine not exceeding five pounds (*c*).

Report of
crew.
1883, s. 19.
50 Vict.
sess. 2,
c. 4, s. 3.

405.—(1.) The owners (*d*) of a fishing boat (*e*), being a trawler of twenty-five tons tonnage or upwards (*f*), shall, within forty-eight hours of her departure from port (*a*) on any voyage, send or cause to be sent to the superintendent (*g*) at the port (*a*) a true report, signed by an owner (*d*) or the registered managing owner (*h*), in a form approved by the Board of Trade, stating the names of the skipper, seamen (*a*), and apprentices (*i*) who have gone to sea in her, and such other particulars as the Board require.

(2.) Where the sole or the registered managing owner (*h*) or every owner (*d*) of such a fishing boat goes to sea in her on the voyage, or the voyage commences at a port (*a*) where there is no owner or registered managing owner (*h*), the report may be made and signed on his behalf by his agent for that purpose.

(3.) If any requirement of this section is not complied with in the case of any boat (*k*), each owner (*d*) of the boat and the registered managing owner (*h*) (if any) of the boat shall for each offence be liable to a fine not exceeding five pounds (*c*).

(4.) The Board of Trade may in any case they think fit, and subject to such conditions and requirements as in their opinion may be necessary, exempt owners of boats (*k*) from this section.

Statement
of change

406.—(1.) Where a fishing boat's running agreement (*l*) has been made, the skipper shall, before finally leaving

- (a) Defined, § 742.
- (b) Engagements, §§ 399–403; discharges, § 410, *et seq.*
- (c) How recovered, §§ 680–684; how applicable, §§ 699, 716.
- (d) § 58 and notes.
- (e) Defined, § 370.

- (f) § 371.
- (g) §§ 247, 742.
- (h) § 59.
- (i) § 393.
- (k) As defined in sub-s. 1.
- (l) § 403, s. 1.

any port (*m*) for sea during the continuance of the agree- of crew in
ment, sign and send to the nearest superintendent (*n*) an case of
accurate statement, in a form approved by the Board of agree-
Trade, of every change which has taken place in his runnings.
crew (*o*), and that statement shall be admissible in evidence 1883, s. 21.
in manner provided by this Act (*p*). 50 Vict.
sess. 2,
c. 4, s. 3.

(2.) If a skipper fails (*q*) without reasonable cause to
comply with this section, he shall for each offence be liable
to a fine not exceeding five pounds (*r*).

(3.) The Board of Trade may in any case they think fit,
and subject to such conditions and requirements as in their
opinion may be necessary, exempt skippers of boats from
this section.

407. Every erasure interlineation or alteration in a Altera-
fishing boat's agreement (*s*) (except additions so made as tions, &c.,
herein-before directed for shipping substitutes or persons in agree-
engaged subsequently to the first departure of the fishing ments to
boat (*t*) shall be wholly inoperative unless proved to have be attes-
been made with the consent of all the persons interested 1883, s. 22.
in that erasure interlineation or alteration (*u*).

408. If a skipper—

- (i.) fraudulently alters, or makes any false entry in, a Offences
fishing boat's agreement (*s*), or is privy to any such as to
fraudulent alteration or false entry; agree-
ments
with the
crew.
(ii.) delivers, or is privy to the delivery of, a false copy 1883, s. 23.
of a fishing boat's agreement (*s*);
he shall for each offence be liable to a fine not exceeding
twenty pounds (*r*).

Payment of Wages and Discharge of Seamen (v).

409.—(1.) The owner of a fishing boat (*x*), being a Account
trawler of twenty-five tons tonnage or upwards (*y*), shall of wages.
1883, s. 24.
50 Vict.
sess. 2,
c. 4, s. 4.

(*m*) Defined, § 742.

(*n*) §§ 247, 742.

(*o*) See notes to §§ 113, 114.

(*p*) § 695.

(*q*) Includes refusal; § 742.

(*r*) How recovered, §§ 680-684;
how applicable, §§ 699, 716.

(*s*) § 399.

(*t*) § 401.

(*u*) See notes to § 122.

(*v*) Application, see Preliminary
Note to this Part, and Section III. of
this Part; also § 263, s. 2.

(*x*) Defined, § 370.

(*y*) § 371.

deliver to the skipper, and the owner (*z*) or skipper of such a boat shall deliver to every seaman (*a*) of that boat, a full and true account, in a form approved by the Board of Trade, of the wages (*a*) of the skipper or seaman (*a*), as the case may be (not being a share in the catch), and of all deductions (*b*) to be made therefrom on any account whatever, and a deduction from the wages (*a*) of a skipper or seaman (*a*) shall not be allowed unless it is included in the account so delivered, or is in regard of a matter happening after such delivery.

(2.) The skipper may by notice to the owner (*z*), and a seaman (*a*) may by notice to the skipper, dispense with the delivery of such account.

(3.) Except where the account of wages is dispensed with, the account shall be delivered not less than four hours before the paying off or discharge of the skipper or seaman (*a*).

(4.) If the owner (*z*) or skipper of a boat fails (*c*) without reasonable cause to comply with this section, he shall for each offence be liable to a fine not exceeding five pounds (*d*).

Certificate
of dis-
charge.
1883, s. 26.

410.—(1.) Upon the discharge of a seaman (*a*) from a fishing boat (*e*), being a trawler of twenty-five tons tonnage or upwards (*f*), or on the payment of his wages (*a*), the skipper shall sign and deliver to him a certificate of discharge, in a form approved by the Board of Trade, specifying the period of his service, and the time and place of his discharge.

(2.) If a skipper fails (*c*) to comply with this section, he shall for each offence be liable to a fine not exceeding five pounds (*d*).

Compensation to
seamen
improperly dis-
charged.
1883, s. 27.

411. If a seaman (*a*), having signed a fishing boat's agreement (*g*), is discharged before the commencement of the voyage, or at any time during the voyage or engagement, without fault on his part justifying the discharge and

(*z*) § 58 and notes.

(*a*) Defined, § 742.

(*b*) Cf. note to § 182.

(*c*) Includes refusal; § 742.

(*d*) How recovered, §§ 680-684;

how applicable, §§ 699, 716.

(*e*) Defined, § 370.

(*f*) § 371.

(*g*) § 399.

without his consent, he shall be entitled to recover, in addition to an amount of wages (*h*) proportionate to the time he has served, sufficient compensation for the damage caused to him by the discharge, and may recover that compensation as wages duly earned (*i*).

412. The provisions of this Part of this Act (*k*) relating to the discharge of seamen (*h*) and the payment of wages (*h*) shall apply whether the seaman (*h*) is serving under an ordinary agreement (*l*), or under an agreement to serve in two or more fishing boats belonging to the same owner (*m*), or under a fishing boat's running agreement (*n*).

Provision as to discharge, &c., to apply in the case of any sort of agreement. 1883, ss. 15, 16.

Certificates of Skippers and Second Hands (o).

413.—(1.) A fishing boat (*p*), being a trawler of twenty-five tons tonnage or upwards (*q*) shall not go to sea from any port (*h*) of England or Ireland unless provided with a duly certificated skipper and a duly certificated second hand (*p*).

Skippers and second hands to hold certificate of competency. 1883, ss. 38, 42. 50 Vict. sess. 2, c. 4, ss. 8, 9.

(2.) If a boat goes to sea contrary to this section, the owner (*r*) thereof shall for each offence be liable to a fine not exceeding twenty pounds (*s*).

(3.) If any person, except in case of necessity—

(a.) having been engaged to serve as skipper or second hand (*p*) of a fishing boat (*p*), being a trawler of twenty-five tons tonnage and upwards (*q*), serves as skipper or second hand (*p*) of that boat without being duly certificated (*t*); or

(b.) employs any person as skipper or second hand (*p*) of such a boat without ascertaining that he is duly certificated (*t*);

that person shall for each offence be liable to a fine not exceeding twenty pounds (*s*).

(4.) A skipper or second hand (*p*) shall not be deemed duly

(*h*) Defined, § 742.

(*i*) § 164.

(*k*) §§ 409–411.

(*l*) § 399.

(*m*) § 402, s. 2.

(*n*) § 403.

(*o*) Application, see Preliminary Note to this Part, and Section III.

thereof.

(*p*) § 370.

(*q*) § 371.

(*r*) Note to § 58.

(*s*) How recovered, §§ 680–684; how applicable, §§ 699, 716.

(*t*) § 413, s. 2, and § 414.

certificated for the purpose of this section unless he holds a certificate under this Part of this Act (*u*) appropriate to his station in the boat or to a higher station.

(5.) Where the skipper of such a boat is absent from his boat a superintendent (*x*) may, on the request of the owner (*y*) of the boat, and on being satisfied that the absence is due to an unavoidable cause, authorize the second hand (*z*) of the boat to act, for a period not exceeding one month, as the skipper of the boat during the skipper's absence, and the second hand when acting under that authority shall for the purposes of this section be deemed to be a duly certificated skipper (*a*).

Granting
of certi-
cate of
compe-
tency.
1883, ss.
37, 39.

414.—(1.) Certificates of competency as skipper or as second hand (*z*) of fishing boats (*z*), or any particular class of fishing boats (*z*), may be granted by the Board of Trade in the same manner as certificates of competency as master (*b*) or mate under the Second Part of this Act (*c*), and all the provisions of this Act with respect to or connected with the examination of applicants for certificates and the granting thereof (*c*), and the suspension and cancellation thereof, and inquiries and investigations into the conduct of the holders thereof (*d*), and all other provisions of this Act relating to or connected with certificates of masters or mates, shall apply to the certificates as skipper or second hand (*z*) of fishing boats (*z*), and the holders thereof, as if the certificates had been granted under Part II. of this Act (*c*), and the holders thereof shall be entitled to such privileges, and subject to such liabilities as they would be if such certificates had been so granted (*c*).

(2.) A certificate of competency as skipper of a fishing boat (*z*) shall not be granted to any person unless he has previously held a certificate as second hand (*z*) for at least twelve months.

Certificate
of service.
1883, s. 40.
50 Vict.
secs. 2,
c. 4, s. 7.

415.—(1.) If any person before the first day of September

- (*u*) § 414.
- (*x*) §§ 247, 742.
- (*y*) Notes to § 58.
- (*a*) § 370.

- (*a*) § 418, s. 4, and § 414.
- (*b*) Defined, § 742.
- (*c*) §§ 92-104, 128.
- (*d*) §§ 464-471.

one thousand eight hundred and eighty-three served as a skipper or before the first day of July one thousand eight hundred and eighty-eight served as a second hand (e) in fishing boats (e), being trawlers of twenty-five tons tonnage and upwards (f) or such other fishing boats (e) as the Board of Trade consider will have afforded that person sufficient experience, for a period amounting in all to not less than twelve months, that person shall be entitled to a certificate of service as skipper or second hand (e), as the case may be, of a fishing boat (e), limited, if he has been exclusively employed in a particular class of such fishing boats, to that particular class.

(2.) If a person proves to the Board of Trade that he has served as required by this section and has been generally well conducted on board the boats in which he has served, the Board of Trade shall deliver a certificate of service (g) to him.

(3.) The certificate of service shall differ in form from a certificate of competency (h), and shall contain particulars of the name, place, and date of birth of the holder, and of the length and nature of his previous service.

(4.) This Act shall apply to a certificate of service so granted and to the holder thereof in like manner as it applies to a certificate of competency granted under this Part of this Act and to the holder thereof (i).

416.—(1.) The Board of Trade may cause a register of certificated skippers and second hands (k) to be kept in such form and by such person, and containing such particulars, as the Board direct.

Registers
of certi-
ficated
skippers
and second
hands.
1883, s. 41.

(2.) Such register shall be admissible in evidence in manner provided by this Act (l), and the absence of an entry in the register of any person or matter shall be evidence of the non-registration of such person or matter, and if the question is whether the person has been certificated

(e) § 370.

(f) § 371.

(g) Sub-s. 1.

(h) § 414.

(i) §§ 413, 414.

(k) § 370.

(l) § 695.

certificated for the purpose of this section unless he holds a certificate under this Part of this Act (*u*) appropriate to his station in the boat or to a higher station.

(5.) Where the skipper of such a boat is absent from his boat a superintendent (*x*) may, on the request of the owner (*y*) of the boat, and on being satisfied that the absence is due to an unavoidable cause, authorize the second hand (*z*) of the boat to act, for a period not exceeding one month, as the skipper of the boat during the skipper's absence, and the second hand when acting under that authority shall for the purposes of this section be deemed to be a duly certificated skipper (*a*).

Granting
of certi-
cate of
compe-
tency.
1883, ss.
37, 39.

414.—(1.) Certificates of competency as skipper or as second hand (*z*) of fishing boats (*z*), or any particular class of fishing boats (*z*), may be granted by the Board of Trade in the same manner as certificates of competency as master (*b*) or mate under the Second Part of this Act (*c*), and all the provisions of this Act with respect to or connected with the examination of applicants for certificates and the granting thereof (*c*), and the suspension and cancellation thereof, and inquiries and investigations into the conduct of the holders thereof (*d*), and all other provisions of this Act relating to or connected with certificates of masters or mates, shall apply to the certificates as skipper or second hand (*z*) of fishing boats (*z*), and the holders thereof, as if the certificates had been granted under Part II. of this Act (*c*), and the holders thereof shall be entitled to such privileges, and subject to such liabilities as they would be if such certificates had been so granted (*c*).

(2.) A certificate of competency as skipper of a fishing boat (*z*) shall not be granted to any person unless he has previously held a certificate as second hand (*z*) for at least twelve months.

Certificate
of service.
1883, s. 40.
50 Vict.
ss. 2,
c. 4, s. 7.

415.—(1.) If any person before the first day of September

- (*u*) § 414.
- (*x*) §§ 247, 742.
- (*y*) Notes to § 58.
- (*a*) § 370.

- (*a*) § 413, s. 4, and § 414.
- (*b*) Defined, § 742.
- (*c*) §§ 92-104, 123.
- (*d*) §§ 464-471.

one thousand eight hundred and eighty-three served as a skipper or before the first day of July one thousand eight hundred and eighty-eight served as a second hand (*e*) in fishing boats (*e*), being trawlers of twenty-five tons tonnage and upwards (*f*) or such other fishing boats (*e*) as the Board of Trade consider will have afforded that person sufficient experience, for a period amounting in all to not less than twelve months, that person shall be entitled to a certificate of service as skipper or second hand (*e*), as the case may be, of a fishing boat (*e*), limited, if he has been exclusively employed in a particular class of such fishing boats, to that particular class.

(2.) If a person proves to the Board of Trade that he has served as required by this section and has been generally well conducted on board the boats in which he has served, the Board of Trade shall deliver a certificate of service (*g*) to him.

(3.) The certificate of service shall differ in form from a certificate of competency (*h*), and shall contain particulars of the name, place, and date of birth of the holder, and of the length and nature of his previous service.

(4.) This Act shall apply to a certificate of service so granted and to the holder thereof in like manner as it applies to a certificate of competency granted under this Part of this Act and to the holder thereof (*i*).

416.—(1.) The Board of Trade may cause a register of certificated skippers and second hands (*k*) to be kept in such form and by such person, and containing such particulars, as the Board direct.

Registers
of certifi-
cated
skippers
and second
hands.
1883, s. 41.

(2.) Such register shall be admissible in evidence in manner provided by this Act (*l*), and the absence of an entry in the register of any person or matter shall be evidence of the non-registration of such person or matter, and if the question is whether the person has been certificated

(*e*) § 370.

(*f*) § 371.

(*g*) Sub-s. 1.

(*h*) § 414.

(*i*) §§ 413, 414.

(*k*) § 370.

(*l*) § 695.

as a skipper or second hand(*m*), of his not being so certificated(*n*).

Conveyance of Fish from Trawlers.

Board of
Trade re-
gulations
as to con-
veyance
of fish
from traw-
lers.
50 Vict.
sess. 2,
c. 4, s. 10.

417.—(1.) The Board of Trade, on application of any owners of a fleet of fishing boats(*m*), or of any association of owners of fishing boats(*m*), or of any persons having the charge or command of a fleet of fishing boats(*m*), or without such application if the person or association entitled to make the application fails(*o*) after request by the Board of Trade to do so, may make such regulations respecting the conveyance of fish from fishing boats(*m*) catching fish as trawlers to vessels engaged in collecting and carrying fish to port, as may appear to the Board expedient for preventing loss of life, or danger to life or limb.

(2.) All regulations so made shall be laid for thirty days before both Houses of Parliament while in session, and shall not come into force till the expiration of those thirty days; and if either House within those thirty days resolves that the whole or any part of the regulations laid before them ought not to be in force, the same shall not have any force, without prejudice, nevertheless, to the making of any other regulation in its place.

(3.) All regulations made under this section shall, whilst in force, have effect as if enacted in this Act.

(4.) If any person(*p*) to whom such a regulation applies fails(*o*) without reasonable cause to comply therewith, he shall for each offence be liable to a fine not exceeding ten pounds(*q*).

(5.) This section shall apply to fishing boats(*m*) of whatever tonnage.

(*m*) § 370.

(*n*) §§ 413, 414.

(*o*) Includes refusal; § 742.

(*p*) Includes corporations; Int.

Act, 1889, §§ 2, 19.

(*q*) How recovered, §§ 680-684;
how applicable, §§ 699, 716.

PART V.

1854 = 17 & 18 Vict. c. 104.

1862 = 25 & 26 Vict. c. 63.

Int. Act, 1889 = Interpretation Act, 1889 (52 & 53 Vict. c. 63).

PRELIMINARY NOTE TO PART V.

SAFETY.

THERE is no general clause providing for the application of this Part, but each clause provides whether or not it applies to other than British ships, and to what classes of British ships it applies.

The chief heads dealt with are—

1. Prevention of collisions (§§ 418–424).
2. Life-saving appliances (§§ 427–431).
3. Draught of water and load-line (§§ 436–445).
4. Dangerous goods (§§ 446–450).
5. Timber cargo (§ 451).
6. Grain cargo (§§ 452–456).
7. Unseaworthy ships, and their detention (§§ 457–463).

The regulations for preventing collisions, the rules for life-saving appliances, and the rules for signals of distress, are printed in the Appendix.

Under § 721 any documents used under this Part are exempt from stamp duty.

PART V.

ARRANGEMENT OF SECTIONS.

SAFETY.

Prevention of Collisions.

Section.

- 418. Collision regulations (p. 319).
- 419. Observance of collision regulations (p. 320).
- 420. Inspection as to lights and fog signals (p. 321).
- 421. Saving for local rules of navigation in harbours, &c.
(p. 322).
- 422. Duty of vessel to assist the other in case of collision
(p. 322).
- 423. Collisions to be entered in official log (p. 323).
- 424. Application of collision regulations to foreign ships
(p. 324).

Report of Accidents and Loss of Ship.

- 425. Report to Board of Trade of accidents to steamships
(p. 324).
- 426. Notice of loss of British ship to be given to the Board of
Trade (p. 325).

Life-saving Appliances.

- 427. Rules as to life-saving appliances (p. 325).
- 428. Duties of owners and masters as to carrying life-saving
appliances (p. 326).
- 429. Appointment of consultative committee for framing
rules (p. 327).
- 430. Penalty for breach of rules (p. 327).
- 431. Survey of ship with respect to life-saving appliances.
(p. 328).

General Equipment.

- 432. Adjustment of compasses and provision of hose (p. 329).
- 433. Placing undue weight on safety-valve (p. 329).

Signals of Distress.

Section.

- 434. Signals of distress (p. 329).
- 435. Provision of signals of distress, inextinguishable lights, and life-buoys (p. 330).

Draught of Water and Load-Line.

- 436. Ship's draught of water to be recorded (p. 330).
- 437. Marking of deck-lines (p. 331).
- 438. Marking of load-line (p. 332).
- 439. Ships with submerged load-lines deemed unsafe (p. 333).
- 440. Time, &c., for marking of load-line in case of foreign-going vessels (p. 333).
- 441. Time, &c., for marking of load-line in case of coasting vessels (p. 334).
- 442. Penalty for offences in relation to marking of load-line (p. 335).
- 443. Regulations as to load-line (p. 335).
- 444. Provision as to colonial ships with respect to load-lines (p. 337).
- 445. Provision as to foreign ships with respect to load-lines (p. 337).

Dangerous Goods.

- 446. Restrictions on carriage of dangerous goods (p. 338).
- 447. Penalty for misdescription of dangerous goods (p. 339).
- 448. Power to deal with goods suspected of being dangerous (p. 339).
- 449. Forfeiture of dangerous goods improperly sent or carried (p. 339).
- 450. Saving for other enactments relating to dangerous goods (p. 340).

Loading of Timber.

- 451. Loading of timber (p. 340).

Carriage of Grain.

- 452. Obligation to take precautions to prevent grain cargo from shifting (p. 342).
- 453. Precautions against shifting of grain cargo laden in port in Mediterranean or Black Sea, or on coast of North America (p. 342).
- 454. Notice by master of kind and quantity of grain cargo (p. 343).
- 455. Power of Board of Trade for enforcing provisions as to carriage of grain (p. 344).
- 456. Definition of grain, &c. (p. 344).

Unseaworthy Ships.

Section.

- 457. Sending unseaworthy ship to sea a misdemeanor (p. 345).
 - 458. Obligation of shipowner to crew with respect to use of reasonable efforts to secure seaworthiness (p. 346).
 - 459. Power to detain unsafe ships, and procedure for detention (p. 347).
 - 460. Liability for costs and damages (p. 349).
 - 461. Power to require from complainant security for costs (p. 351).
 - 462. Application to foreign ships of provisions as to detention (p. 352).
 - 463. Survey of ships alleged by seamen to be unseaworthy (p. 352).
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1854 = 17 & 18 Vict. c. 104.

1862 = 25 & 26 Vict. c. 63.

Int. Act, 1889 = Interpretation Act, 1889 (52 & 53 Vict. c. 63).

PART V.

SAFETY.

Prevention of Collisions.

418.—(1.) Her Majesty may, on the joint recommendation of the Admiralty and the Board of Trade, by Order in Council (*a*), make regulations for the prevention of collisions at sea (*b*), and may thereby regulate the lights to be carried and exhibited, the fog signals to be carried and used, and the steering and sailing rules to be observed, by ships (*c*), and those regulations (in this Act referred to as the collision regulations) shall have effect as if enacted in this Act.

Collision
regula-
tions.
1862, ss.
25, 57.

(2.) The collision regulations (*d*), together with the provisions of this Part of this Act relating thereto (*e*), or otherwise relating to collisions, shall be observed by all foreign ships within British jurisdiction (*f*), and in any case arising in a British court (*g*) concerning matters arising within British jurisdiction (*f*) foreign ships shall, so far as respects the collision regulations (*d*) and the said provisions of this Act (*e*), be treated as if they were British ships.

(*a*) § 738.

(*b*) These regulations were scheduled to the Act of 1862; but, as they could be altered by Order in Council, were repealed by the Statute Law Revision Act, 1893, and have not been scheduled to this Act. They are printed as an Appendix; for the decisions on them, see Marsden on Collisions, 3rd edit. Fresh regulations on some points

come into effect in the autumn of 1895, as the result of the International Conference at Washington.

(*c*) See § 418, s. 2.

(*d*) § 418, s. 1.

(*e*) §§ 418-424.

(*f*) The King's Chambers, *i.e.* bays and estuaries; and three miles from low-water mark. See *R. v. Keyn* (*The Franconia*) (1876), 2 Ex. D. 63.

(*g*) Defined, § 742.

Observance of collision regulations. 1862, ss. 26-28. 36 & 37 Vict. c. 85, s. 17.

419.—(1.) All owners (*h*) and masters (*i*) of ships (*k*) shall obey the collision regulations (*l*), and shall not carry or exhibit any other lights, or use any other fog signals, than such as are required by those regulations.

(2.) If an infringement of the collision regulations (*l*) is caused by the wilful default of the master (*i*) or owner (*h*) of the ship, that master (*i*) or owner (*h*) shall, in respect of each offence, be guilty of a misdemeanor (*m*).

(3.) If any damage to person or property arises from the non-observance by any ship (*k*) of any of the collision regulations (*n*), the damage shall be deemed to have been occasioned by the wilful default (*o*) of the person in charge of the deck of the ship at the time, unless it is shown to the satisfaction of the court that the circumstances of the case made a departure from the regulation necessary.

(4.) Where in a case of collision it is proved to the court before whom the case is tried, that any of the collision regulations (*n*) have been infringed, the ship by which the regulation has been infringed shall be deemed to be in fault, unless it is shown to the satisfaction of the court that the circumstances of the case made departure from the regulation necessary (*p*).

(*h*) Note to § 58.

(*i*) Defined, § 742.

(*k*) See § 418, s. 2.

(*l*) § 418, s. 1.

(*m*) Procedure, §§ 680-684; fine how applicable, §§ 699, 716.

(*n*) § 418, s. 1. These include local rules under § 421, as the Humber Rules: *The Ripon* (1885), 10 P. D. 65; but not rules made under other powers than this Act, as the Thames Rules: *The Harton* (1884), 9 P. D. 44.

(*o*) Though deemed "wilful default" for this purpose, it will not be barratry, unless shown to be a wilful and not merely negligent breach of the regulations. *Per* Willes, J., in *Grill v. General Iron Screw Collier Co.* (1866), L. R. 1 C. P. at p. 611.

(*p*) This clause was inserted in the Act of 1873 to make the law more stringent; previously, where one ship had broken the regulations,

but the other by proper care could have avoided the collision, the first ship was held not to blame for the collision. *The Fenham* (1870), L. R. 3 P. C. 212. The effect of the clause is to declare any ship which has broken the regulations in fault, unless the departure from the regulations was not merely prudent, but necessary; that is to say, that "the master was either constrained to disobey the regulation by perils of the sea, or that he adopted a course which, in the circumstances, was better than that prescribed by the rule." *Per* Lord Watson and Lord Blackburn, in *The Khedive* (1880), 5 App. C. 876, and cases there cited; *The T. H. Rand* (1887), 12 App. C. 247. If the infringement could by no possibility have contributed to the collision, the section will not apply; otherwise it applies, and proof that the infringement did not, in fact contribute to the collision must be

(5.) The Board of Trade shall furnish a copy of the collision regulations (*r*) to any master (*s*) or owner (*t*) of a ship (*s*) who applies for it.

420.—(1.) A surveyor of ships (*u*) may inspect any ship (*x*), Inspection as to lights and fog signals, in conformity with the collision regulations (*r*), and if the surveyor (*u*) finds that the ship is not so provided, he shall give to the master (*s*) or owner (*t*) notice in writing, pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same. 1862, s. 30. 36 & 37 Vict. c. 85, s. 30. 39 & 40 Vict. c. 80, s. 14.

(2.) Every notice so given shall be communicated in the manner directed by the Board of Trade to the chief officer of customs (*s*) at any port (*s*) at which the ship may seek to obtain a clearance or transire; and the ship shall be detained (*y*), until a certificate under the hand of a surveyor of ships (*u*) is produced to the effect that the ship is properly provided with lights and with the means for making fog signals, in conformity with the collision regulations (*r*).

(3.) For the purpose of an inspection under this section a surveyor (*u*) shall have all the powers of a Board of Trade inspector under this Act (*z*).

(4.) Where the certificate as to lights and fog signals is refused, an owner (*t*) may appeal to the court of survey (*a*) for the port (*s*) or district where the ship for the time being is in manner directed by the rules of that court.

(5.) On any such appeal the judge of the court of survey (*a*) shall report to the Board of Trade on the question raised by the appeal, and the Board of Trade, when satisfied that the requirements of the report and of this Act as to lights and fog signals have been complied with, may grant, or

excluded, if by possibility it might have caused or contributed to it. *The Arklow* (1883), 9 App. C. 136; *The Glamorganshire* (1888), 13 App. C. 454; *The Arratoon Apear* (1889), 15 App. C. 37; *The Duke of Buccleuch* (1891), A. C. 310.

(*r*) See note (*n*), p. 320.

(*s*) Defined, § 742.

(*t*) Notes to § 58.

(*u*) §§ 724–726.

(*x*) Cf. § 418, s. 2.

(*y*) § 692.

(*z*) §§ 728–730.

(*a*) §§ 487–489.

direct a surveyor of ships (*b*) or other person appointed by them to grant, the certificate (*c*).

(6.) Subject to any order made by the judge of court of survey (*d*) the costs of and incidental to the appeal shall follow the event.

(7.) A surveyor (*d*) in making an inspection under this section (*e*) shall, if the owner of the ship so require, be accompanied on the inspection by some person appointed by the owner, and, if in that case the surveyor and the person so appointed agree, there shall be no appeal under this section to the court of survey (*d*).

(8.) Such fees as the Board of Trade may determine shall be paid in respect of an inspection of lights and fog signals under this section not exceeding those specified in the Sixteenth Schedule to this Act (*f*).

Saving for
local rules
of naviga-
tion in
harbours,
&c.
1862, ss.
31, 32.

421.—(1.) Any rules made before or after the passing of this Act under the authority of any local Act, concerning lights and signals to be carried, or the steps for avoiding collision to be taken, by vessels navigating the waters of any harbour (*g*), river, or other inward navigation, shall, notwithstanding anything in this Act, have full effect.

(2.) Where any such rules are not and cannot be made, Her Majesty in Council on the application of any person (*h*) having authority over such waters, or, if there is no such person, any person interested in the navigation thereof, may make such rules, and those rules shall, as regards vessels navigating the said waters, be of the same force as if they were part of the collision regulations (*i*).

Duty of
vessel to
assist the
other in
case of
collision.
36 & 37
Vict. c. 85,
s. 16.

422.—(1.) In every case of collision between two vessels (*k*) it shall be the duty of the master or person in charge (*l*) of

- (*b*) §§ 724–726.
- (*c*) Sub-s. 3.
- (*d*) §§ 487–489.
- (*e*) Sub-s. 1.
- (*f*) To go to Mercantile Marine Fund: § 716.
- (*g*) Cf. § 418, s. 2.
- (*h*) Includes corporations; Int. Act, 1889, § 19.
- (*i*) See note (*n*), p. 320.

(*k*) This word is intentionally wider than “ship” as defined in § 742; in the Act of 1854 the word was “ship,” and it was held in *Ex p. Ferguson* (1871), L. R. 6 Q. B. 281, to include a fishing coble of ten tons burden. In the Act of 1873 the word “vessel” was used to remove all doubt. See definition, § 742.

(*l*) In the Act of 1862 the word

each vessel, if and so far as he can do so without danger to his own vessel crew and passengers (if any) (*m*),

(*a.*) to render to the other vessel her master crew and passengers (if any) such assistance as may be practicable (*n*), and may be necessary to save them from any danger caused by the collision, and to stay by the other vessel until he has ascertained that she has no need of further assistance, and also

(*b.*) to give to the master or person in charge (*o*) of the other vessel the name of his own vessel and of the port (*p*) to which she belongs (*q*), and also the names of the ports (*p*) from which she comes and to which she is bound.

(2.) If the master or person in charge (*o*) of a vessel fails (*r*) to comply with this section, and no reasonable cause for such failure is shown, the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act neglect or default (*s*).

(3.) If the master or person in charge (*o*) fails (*r*) without reasonable cause to comply with this section, he shall be guilty of a misdemeanor (*t*), and, if he is a certificated officer (*u*), an inquiry into his conduct may be held, and his certificate cancelled or suspended (*x*).

423.—(1.) In every case of collision, in which it is Collisions to be en-

was "person in charge," which was held by Sir R. Phillimore, in *The Queen* (1869), 20 L. T. 855, to mean the master, even though a compulsory pilot was on board. The present wording appears to include the pilot, as the definition of "master," in § 742, "every person except a pilot having command or charge of a ship," leaves no meaning to "person in charge" unless it covers a pilot. The wording includes a mate when the master is below. *Ex p. Ferguson, vide supra*. Sir R. Phillimore, in *The Queen* (*vide supra*), said that, if the owner was exempted by compulsory pilotage, subsequent misconduct of the master would not affect him, *sed quære*.

(*m*) As to the history of this provision, see R. Phillimore, in *The*

Hannibal (1867), L. R. 2 A. & E. at p. 56. It does not prevent a ship which has rendered assistance from claiming salvage (*s. c.*).

(*n*) See *The Adriatic* (1875), 3 Asp. M. C. 16. If his ship is too seriously damaged to assist, he must yet return signals, and may be held to blame for not doing so. *The Emmy Haase* (1884), 9 P. D. 81.

(*o*) See note (*t*) p. 322.

(*p*) Defined, § 742.

(*q*) § 13.

(*r*) Includes refusal; § 742.

(*s*) Not necessarily barratry; see note (*o*), p. 320.

(*t*) Procedure, §§ 680-684; fine how applicable, §§ 693, 716.

(*u*) § 92.

(*x*) § 470, s. (*b.*).

tered in
official
log.
1854, s.
328.

practicable so to do, the master (*y*) of every ship (*y*) shall immediately after the occurrence cause a statement thereof, and of the circumstances under which the same occurred, to be entered in the official log book (*z*) (if any), and the entry shall be signed by the master (*y*), and also by the mate or one of the crew (*a*).

(2.) If the master (*y*) fails (*b*) to comply with this section, he shall for each offence be liable to a fine not exceeding twenty pounds (*c*).

Applica-
tion of
collision
regula-
tions to
foreign
ships.
1862, ss.
58, 62.

424. Whenever it is made to appear to Her Majesty in Council that the Government of any foreign country is willing that the collision regulations (*d*), or the provisions of this Part of this Act relating thereto (*e*) or otherwise relating to collisions, or any of those regulations or provisions should apply to the ships of that country when beyond the limits of British jurisdiction (*f*), Her Majesty may, by Order in Council (*g*), direct that those regulations and provisions shall, subject to any limitation of time conditions and qualifications contained in the Order, apply to the ships of the said foreign country, whether within British jurisdiction or not (*f*), and that such ships shall, for the purpose of such regulations and provisions, be treated as if they were British ships (*h*).

Report of Accidents and Loss of Ship (y).

Report to
Board of
Trade of
accidents
to steam-
ships.
1854, ss.
291, 326.

425.—(1.) When a steamship (*i*) has sustained or caused any accident occasioning loss of life or any serious injury to any person, or has received any material damage affecting her seaworthiness or her efficiency either in her hull or in any part of her machinery, the owner (*k*) or master (*y*) shall, within twenty-four hours after the happening of the

(*y*) Defined, § 742.

(*z*) § 240.

(*a*) § 113, note.

(*b*) Includes refusal; § 742.

(*c*) Procedure, §§ 680-684; fine how applicable, §§ 699, 716.

(*d*) § 418, s. 1.

(*e*) §§ 418-424.

(*f*) § 418, s. 2.

(*g*) § 738.

(*h*) Orders in Council have been made as to, amongst others, France, Germany, Russia, Norway, Sweden, Denmark, the Netherlands, Belgium, Italy, Austria, Greece, United States, and Japan.

(*i*) Includes vessels propelled by electricity; § 743.

(*k*) See § 58.

accident or damage, or as soon thereafter as possible, transmit to the Board of Trade, by letter signed by the owner (*l*) or master (*m*), a report (*n*) of the accident or damage, and of the probable occasion (*o*) thereof, stating the name of the ship, her official number (if any), the port (*m*) to which she belongs (*p*), and the place where she is.

(2.) If the owner (*l*) or master (*m*) of a steamship (*q*) fails (*r*) without reasonable cause to comply with this section, he shall for each offence be liable to a fine not exceeding fifty pounds (*s*).

(3.) This section shall apply to all British ships (*t*), and to all foreign steamships carrying passengers (*u*) between places in the United Kingdom.

426.—(1.) If the managing owner (*x*) or, in the event of there being no managing owner, the ship's husband, of any British ship (*t*) has reason, owing to the non-appearance of the ship or to any other circumstance, to apprehend that the ship has been wholly lost, he shall, as soon as conveniently may be, send to the Board of Trade notice in writing of the loss and of the probable occasion (*o*) thereof, stating the name of the ship, her official number (if any), and the port (*m*) to which she belongs (*p*).

Notice of loss of British ship to be given to the Board of Trade. 36 & 37 Vict. c. 85, s. 22.

(2.) If a managing owner (*x*) or ship's husband fails (*r*) without reasonable cause to comply with this section within a reasonable time, he shall for each offence be liable to a fine not exceeding fifty pounds (*s*).

Life-saving Appliances.

427.—(1.) The Board of Trade may make rules (in this Act called rules for life-saving appliances (*y*)) with respect to all or any of the following matters, namely:—

Rules as to life-saving appliances. 51 & 52 Vict. c. 24, ss. 3, 6, and schs.

- (*l*) See § 58.
- (*m*) Defined, § 742.
- (*n*) In the case of explosions at sea, this report relieves from the necessity of giving notice under the Boilers Explosions Act, 53 & 54 Vict. c. 35, s. 5.
- (*o*) *i.e.* cause.
- (*p*) § 13.

- (*q*) Includes vessels propelled by electricity; § 743.
- (*r*) Includes refusal; § 742.
- (*s*) Procedure, §§ 680-684; fine how applicable, §§ 699, 716.
- (*t*) Note to § 1.
- (*u*) Cf. § 267.
- (*x*) § 59.
- (*y*) Printed in Appendix.

- (a.) the arranging of British ships (*z*) into classes, having regard to the services in which they are employed, to the nature and duration of the voyage, and to the number of persons carried ;
- (b.) the number and description of the boats, life-boats, life-rafts, life-jackets, and life-buoys to be carried by British ships (*z*), according to the class in which they are arranged, and the mode of their construction, also the equipments to be carried by the boats and rafts, and the methods to be provided to get the boats and other life-saving appliances into the water, which methods may include oil for use in stormy weather ; and
- (c.) the quantity, quality, and description of buoyant apparatus to be carried on board British ships (*z*) carrying passengers (*a*), either in addition to or in substitution for boats, life-boats, life-rafts, life-jackets, and life-buoys.

(2.) All such rules shall be laid before Parliament so soon as may be after they are made, and shall not come into operation until they have lain for forty days before both Houses of Parliament during the session of Parliament ; and on coming into operation shall have effect as if enacted in this Act.

(3.) Rules under this section shall not apply to any fishing boat for the time being entered in the fishing boat register under Part IV. of this Act (*b*).

Duties of
owners
and
masters as
to carry-
ing life-
saving ap-
pliances.
51 & 52
Vict. c. 24,
s. 1.

428. It shall be the duty of the owner (*c*) and master (*d*) of every British ship (*z*) to see that his ship is provided, in accordance with the rules for life-saving appliances (*e*), with such of those appliances as, having regard to the nature of the service on which the ship is employed, and the avoidance of undue encumbrance of the ship's deck, are best adapted for securing the safety of her crew and passengers.

(*z*) Note to § 1.

(*a*) Cf. §§ 267, 268, and notes.

(*b*) See §§ 373, 375, and Preliminary Note to Part IV.

(*c*) Note to § 58.

(*d*) Defined, § 742.

(*e*) § 427.

429.—(1.) For the purpose of preparing and advising on the rules for life-saving appliances (*f*), the Board of Trade may appoint a committee, the members of which shall be nominated by the Board in accordance with the Seventeenth Schedule to this Act.

Appoint-
ment of
consult-
ative
committee
for framing
rules.
51 & 52
Vict. c. 24,
s. 2.

(2.) A member of the committee shall hold office for two years from the date of his appointment, but shall be eligible for re-appointment.

(3.) There shall be paid to the members of the committee, out of the Mercantile Marine Fund (*g*), such travelling and other allowances as the Board of Trade may fix.

(4.) Her Majesty may, by Order in Council (*h*), alter the Seventeenth Schedule to this Act (*i*).

430.—(1.) In the case of any ship (*k*)—

Penalty
for breach
of rules.
51 & 52
Vict. c. 24,
ss. 4, 7.

(a.) if the ship is required by the rules for life-saving appliances (*f*) to be provided with such appliances and proceeds on any voyage or excursion without being so provided in accordance with the rules applicable to the ship; or

(b.) if any of the appliances with which the ship is so provided are lost or rendered unfit for service in the course of the voyage or excursion through the wilful fault or negligence of the owner (*l*) or master (*m*); or

(c.) if the master (*m*) wilfully neglects to replace or repair on the first opportunity any such appliances lost or injured in the course of the voyage or excursion; or

(d.) if such appliances are not kept so as to be at all times fit and ready for use;

then the owner (*l*) of the ship (if in fault) shall for each offence be liable to a fine not exceeding one hundred pounds (*n*), and the master (*m*) of the ship (if in fault) shall for each offence be liable to a fine not exceeding fifty pounds (*n*).

(*f*) § 427.

(*g*) § 677, s. (o.).

(*h*) § 738.

(*i*) Schedules that may be altered by Order in Council have usually, though not always, been omitted in

drafting this Act.

(*k*) i.e. British ship; see § 427.

(*l*) Note to § 58.

(*m*) Defined, § 742.

(*n*) Procedure, §§ 680-684; fines how applicable, §§ 699, 716.

(2.) Nothing in the foregoing enactments with respect to life-saving appliances shall prevent any person from being liable under any other provision of this Act(*o*), or otherwise(*p*), to any other or higher fine or punishment than is provided by those enactments, provided that a person shall not be punished twice for the same offence.

(3.) If the court before whom a person is charged with an offence punishable under those enactments thinks that proceedings ought to be taken against him for the offence under any other provision of this Act(*o*), or otherwise(*p*), the court may adjourn the case to enable such proceedings to be taken.

Survey of
ship with
respect to
life-saving
appli-
ances.
51 & 52
Vict. c. 24,
s. 5.

431.—(1.) A surveyor of ships(*q*) may inspect any ship(*r*) for the purpose of seeing that she is properly provided with life-saving appliances in conformity with this Act(*s*), and for the purpose of that inspection shall have all the powers of a Board of Trade inspector under this Act(*t*).

(2.) If the said surveyor finds that the ship is not so provided, he shall give to the master(*u*) or owner(*x*) notice in writing pointing out the deficiency, and also pointing out what in his opinion is requisite to remedy the same.

(3.) Every notice so given shall be communicated in the manner directed by the Board of Trade to the chief officer of customs(*u*) of any port(*u*) at which the ship may seek to obtain a clearance or transire, and the ship shall be detained(*y*) until a certificate under the hand of any such surveyor(*q*) is produced to the effect that the ship is properly provided with life-saving appliances in conformity with this Act(*s*).

(*o*) *e.g.* under § 457, for sending an unseaworthy ship to sea.

(*p*) *e.g.* for manslaughter, if life is lost through the default.

(*q*) §§ 724-726.

(*r*) *i.e.* British ship; see § 427.

(*s*) § 427.

(*t*) §§ 728-730.

(*u*) Defined, § 742.

(*x*) Note to § 58.

(*y*) § 692.

General Equipment.

432.—(1.) Every British (z) sea-going (a) steamship (b) if employed to carry passengers (c), shall have her compasses properly adjusted from time to time; and every British (z) sea-going (a) steamship (b) not used wholly as a tug shall be provided with a hose capable of being connected with the engines of the ship, and adapted for extinguishing fire in any part of the ship:

Adjustment of compasses and provision of hose. 1854, s. 301.

(2.) If any such British (z) sea-going (a) steamship (b) plies or goes to sea from any port (d) in the United Kingdom and any requirement of this section is not complied with, then for each matter in which default is made, the owner (e) (if in fault) shall be liable to a fine not exceeding one hundred pounds (f), and the master (d) (if in fault) shall be liable to a fine not exceeding fifty pounds (f).

433. A person shall not place an undue weight on the safety valve of any steamship, and if he does so he shall, in addition to any other liability he may incur by so doing (g), be liable for each offence to a fine not exceeding one hundred pounds (f).

Placing undue weight on safety valve. 1854, s. 302.

Signals of Distress.

434. (1.)—Her Majesty in Council (h) may make rules (i) as to what signals shall be signals of distress, and the signals fixed by those rules shall be deemed to be signals of distress.

Signals of distress. 36 & 37 Vict. c. 85, ss. 18, 20.

(2.) If a master (d) of a vessel (k) uses or displays, or causes or permits any person under his authority to use or display, any of those signals of distress, except in the case of

(z) Note to § 1.

(a) Cf. *Salt Union v. Wood* (1893), 1 Q. B. 370.

(b) Includes vessels propelled by electricity; see § 743, s. (c.).

(c) Cf. notes to §§ 267, 268.

(d) Defined, § 742.

(e) § 58.

(f) Procedure, §§ 680-684; application of fine, §§ 699, 716.

(g) In case of a passenger steamer,

under § 286; also prosecution if injury to life or person result.

(h) § 738.

(i) These were scheduled to the Act of 1873; but are omitted here, as they can be changed by Order in Council. They are printed in the Appendix.

(k) Wider than "ship;" see note (k) to § 422, and § 742.

a vessel being in distress, he shall be liable to pay compensation for any labour undertaken, risk incurred, or loss sustained in consequence of that signal having been supposed to be a signal of distress, and that compensation may, without prejudice to any other remedy, be recovered in the same manner in which salvage is recoverable (*l*).

Provision
of signals
of distress,
inextin-
guishable
lights, and
life-buoys.
39 & 40
Vict. c. 80,
s. 21.
See 18 & 19
Vict. c.
119, s. 27.

435.—(1.) Where a ship (*m*) is a sea-going (*n*) passenger steamer (*o*) or emigrant ship (*p*) within the meaning of the Third Part of this Act, the ship shall be provided to the satisfaction of the Board of Trade—

(*a*.) with means for making the said signals of distress (*q*) at night, including means of making flames on the ship which are inextinguishable in water, or such other means of making signals of distress as the Board of Trade may previously approve; and

(*b*.) with a proper supply of lights inextinguishable in water, and fitted for attachment to life-buoys.

(2.) If any such ship (*r*) goes to sea from any port (*m*) of the United Kingdom without being provided as required by this section, then for each default in any of the above requisites the owner (*s*) (if in fault) shall be liable to a fine not exceeding one hundred pounds (*t*), and the master (*m*) (if in fault) shall be liable to a fine not exceeding fifty pounds (*t*).

Draught of Water and Load-Line.

Ship's
draught of
water
to be
recorded.
34 & 35
Vict. c.
110, s. 5.
36 & 37
Vict. c. 85,
s. 4.

436.—(1.) The Board of Trade may, in any case or class of cases in which they think it expedient to do so, direct any person appointed by them for the purpose, to record, in such manner and with such particulars as they direct, the draught of water of any sea-going (*n*) ship, as shown on the scale of feet on her stem and stern post, and the extent of her clear side (*u*) in feet and inches, upon her leaving any dock, wharf, port (*m*), or harbour (*m*) for the purpose of

(*l*) §§ 547, 548.

(*m*) Defined, § 742.

(*n*) Cf. *Salt Union v. Wood* (1893),

1 Q. B. 370.

(*o*) § 267.

(*p*) § 268.

(*q*) § 434, s. 1.

(*r*) Sub-s. 1.

(*s*) § 58.

(*t*) Procedure, §§ 680-684; application of fine, §§ 699, 716.

(*u*) Defined, sub-s. 5.

proceeding to sea, and the person so appointed shall thereupon keep that record, and shall forward a copy thereof to the Board of Trade.

(2.) That record or copy, if produced out of the custody of the Board of Trade, shall be admissible in evidence in manner provided by this Act (*x*).

(3.) The master (*y*) of every British (*z*) sea-going (*a*) ship (*y*) shall, upon her leaving any dock, wharf, port (*y*), or harbour (*y*) for the purpose of proceeding to sea, record her draught of water and the extent of her clear side (*b*) in the official log-book (*c*) (if any), and shall produce the record to any chief officer of customs (*y*) whenever required by him, and if he fails (*d*) without reasonable cause to produce the record shall for each offence be liable to a fine not exceeding twenty pounds (*e*).

(4.) The master (*y*) of a sea-going (*a*) ship (*y*) shall, upon the request of any person appointed to record the ship's draught of water, permit that person to enter the ship and to make such inspections and take such measurements as may be requisite for the purpose of the record; and if any master (*y*) fails (*d*) to do so, or impedes, or suffers any one under his control to impede, any person so appointed in the execution of his duty, he shall for each offence be liable to a fine not exceeding five pounds (*e*).

(5.) In this section the expression "clear side" means the height from the water to the upper side of the plank of the deck from which the depth of hold as stated in the register is measured (*f*), and the measurement of the clear side is to be taken at the lowest part of the side.

437.—(1.) Every British (*z*) ship (*y*) (except ships under eighty tons register employed solely in the coasting trade, ships employed solely in fishing, and pleasure yachts, and ships employed exclusively in trading or going from place to

Marking
of deck-
lines.
39 & 40
Vict. c. 80,
ss. 25, 44.
53 Vict.
c. 9, s. 5.

(*x*) § 695.

(*y*) Defined, § 742.

(*z*) Note to § 1.

(*a*) Cf. *Salt Union v. Wood* (1893),
1 Q. B. 370.

(*b*) Defined, sub-s. 5.

(*c*) § 240.

(*d*) Includes refusal; § 742.

(*e*) Procedure, §§ 680-684; appli-
cation of fine, §§ 699, 716.

(*f*) Schedule II., tonnage regula-
tions.

place in any river or inland water the whole or part of which is in any British possession (*g*)), shall be permanently and conspicuously marked with lines (in this Act called deck-lines) of not less than twelve inches in length and one inch in breadth, painted longitudinally on each side amidships (*h*), or as near thereto as is practicable, and indicating the position of each deck which is above water.

(2.) The upper edge of each of the deck-lines (*i*) must be level with the upper side of the deck plank next the water-way at the place of marking.

(3.) The deck-lines (*i*) must be white or yellow on a dark ground, or black on a light ground.

(4.) In this section the expression "amidships" means the middle of the length of the load water-line as measured from the fore side of the stem to the aft side of the stern-post.

**Marking
of load-
line.**

39 & 40
Vict. c. 80.
ss. 26, 27.
53 Vict.
c. 9, s. 1.

438.—(1.) The owner (*k*) of every British (*l*) ship (*m*) proceeding to sea from a port (*m*) in the United Kingdom (except ships under eighty tons register employed solely in the coasting trade, ships employed solely in fishing, and pleasure yachts) shall, before the time herein-after mentioned, mark upon each of her sides, amidships (*h*) within the meaning of the last preceding section, or as near thereto as is practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with an horizontal line eighteen inches in length drawn through its centre.

(2.) The centre of this disc shall be placed at such level as may be approved by the Board of Trade below the deck-line (*i*) marked under this Act and specified in the certificate given thereunder (*n*), and shall indicate the maximum load-line in salt water to which it shall be lawful to load the ship.

(*g*) Int. Act. 1889, § 18, s. 2.
These last-mentioned ships are not expressly excepted from the load-line provisions in § 438, as they are not within the enacting part of that section.

(*h*) Defined, § 437, s. 4.
(*i*) § 437, s. 1.
(*k*) § 58, note.
(*l*) Note to § 1.
(*m*) Defined, § 742.
(*n*) § 443, s. 1.

(3.) The position of the disc shall be fixed in accordance with the tables used at the time of the passing of this Act by the Board of Trade (*p*), subject to such allowance as may be made necessary by any difference between the position of the deck-line marked under this Act (*q*) and the position of the line from which freeboard is measured under the said tables, and subject also to such modifications, if any, of the tables and the application thereof as may be approved by the Board of Trade (*p*).

(4.) In approving any such modifications the Board of Trade shall have regard to any representations made to them by any corporation or association for the survey or registry of shipping for the time being appointed or approved by the Board of Trade, as herein-after mentioned, for the purpose of approving and certifying the position of the load-line (*p*).

439. If a ship (*r*) is so loaded as to submerge in salt water the centre of the disc indicating the load-line (*s*), the ship shall be deemed to be an unsafe ship within the meaning of the provisions hereafter contained in this Part of this Act (*t*), and such submersion shall be a reasonable and probable cause for the detention of the ship (*u*).

Ships with submerged load-lines deemed unsafe. 55 & 56 Vict. c. 37, s. 1.

440.—(1.) Where a ship (*x*) proceeds on any voyage from a port (*r*) in the United Kingdom for which the owner is required to enter the ship outwards (*y*), the disc indicating the load-line (*s*) shall be marked, before so entering her, or, if that is not practicable, as soon afterwards as may be.

(2.) (*z*) The owner of the ship shall upon entering her outwards insert in the form of entry (*y*) a statement in writing of the distance in feet and inches between the centre of this disc (*s*) and the upper edge of each of the deck-lines (*a*) which is above that centre, and if default

Time, &c., for marking of load-line in case of foreign-going vessels. 39 & 40 Vict. c. 80, s. 26.

(*p*) § 443, s. 1.

(*q*) § 437.

(*r*) Defined, § 742.

(*s*) § 438, s. 1.

(*t*) § 459. An "unsafe ship" is not necessarily "unseaworthy" under § 457.

(*u*) § 460, s. 1.

(*x*) British; see § 438, s. 1.

(*y*) 39 & 40 Vict. c. 36, § 101.

(*z*) Compliance with this is excused in certain cases; see § 443, s. 4.

(*a*) § 437, s. 1.

is made in inserting that statement, the ship may be detained (*b*).

(8.) The master (*c*) of the ship shall enter a copy of that statement in the agreement with the crew (*d*) before it is signed by any member of the crew (*d*), and a superintendent (*e*) shall not proceed with the engagement of the crew until that entry is made (*f*).

(4.) The master (*c*) of the ship shall also enter a copy of that statement in the official log-book (*g*).

(5.) When a ship to which this section applies (*h*) has been marked with a disc indicating the load-line (*i*), she shall be kept so marked until her next return to a port (*c*) of discharge in the United Kingdom.

Time, &c.,
for mark-
ing of
load-line
in case of
coasting
vessels.
39 & 40
Vict. c. 80,
s. 27.

441 (k).—(1.) Where a ship employed in the coasting trade (*l*) is required to be marked with the disc indicating the load-line (*m*), she shall be so marked before the ship proceeds to sea from any port (*c*); and the owner (*n*) shall also once in every twelve months, immediately before the ship proceeds to sea, transmit or deliver to the chief officer of customs (*c*) of the port of registry (*o*) of the ship a statement in writing of the distance in feet and inches between the centre of the disc (*m*) and the upper edge of each of the deck-lines (*p*) which is above that centre.

(2.) The owner (*n*), before the ship proceeds to sea after any renewal or alteration of the disc (*m*), shall transmit or deliver to the chief officer of customs (*c*) of the port of registry (*o*) of the ship notice in writing of that renewal or alteration (*q*), together with such statement in writing as before mentioned of the distance between the centre of the disc (*m*) and the upper edge of each of the deck-lines (*p*).

(*b*) § 692.

(*c*) Defined, § 742.

(*d*) §§ 113, 114.

(*e*) §§ 247, 742.

(*f*) § 115.

(*g*) § 240.

(*h*) British; see § 438, s. 1.

(*i*) § 438, s. 1.

(*k*) Compliance with this section is excused in certain cases; see § 443, s. 4.

(*l*) Ships over eighty tons, or ships

under eighty tons not employed solely in the coasting trade, are so required; see § 438, s. 1.

(*m*) § 438.

(*n*) § 58, note.

(*o*) § 13.

(*p*) § 437, s. 1.

(*q*) Sub-s. 2 apparently contemplates notice after alteration, which is inconsistent with sub-s. 4, which requires notice before alteration.

(3.) If default is made in transmitting or delivering any notice or statement under this section, the owner (*r*) shall, for each offence, be liable to a fine not exceeding one hundred pounds (*s*).

(4.) When a ship to which this section applies (*t*) has been marked with a disc indicating the load-line (*u*), she shall be kept so marked until notice is given of an alteration (*x*).

442.—(1.) If—

(a.) any owner (*r*) or master (*y*) of a British (*z*) ship (*y*) fails without reasonable cause to cause his ship to be marked as by this Part of this Act required (*a*), or to keep her so marked, or allows (*b*) the ship to be so loaded as to submerge in salt water the centre of the disc indicating the load-line (*u*); or

Penalty for offences in relation to marking of load-line.
39 & 40
Vict. c. 80,
s. 28.

(b.) any person conceals, removes, alters, defaces, or obliterates, or suffers any persons under his control to conceal, remove, alter, deface, or obliterate, any of the said marks, except in the event of the particulars thereby denoted being lawfully altered, or except for the purpose of escaping capture by an enemy,

he shall for each offence be liable to a fine not exceeding one hundred pounds (*s*).

(2.) If any mark required by this Part of this Act (*a*) is in any respect inaccurate so as to be likely to mislead, the owner (*r*) of the ship shall for each offence be liable to a fine not exceeding one hundred pounds (*s*).

443.—(1.) The Board of Trade shall appoint the Committee of Lloyd's Register of British and Foreign Shipping, or, at the option of the owner of the ship, any other corporation or association for the survey or registry of shipping approved by the Board of Trade, or any officer of

Regulations as to load-line.
53 Vict.
c. 9, s. 2,
55 & 56
Vict. c. 37,
s. 2.

(*r*) § 58, note.

(a.) How recovered, §§ 680-684;
how applicable, §§ 699, 716.

(t.) Sub-s. 1.

(u.) § 438.

(x.) See note (*q*), p. 334.

(y.) Defined, § 742.

(*z*) Note to § 1.

(a.) §§ 437-441.

(b.) The owner is not liable, if the master overloads without his assent or authority. *Masecy v. Morriss* (1894), 2 Q. B. 412.

the Board of Trade specially selected by the Board for that purpose, to approve and certify on their behalf from time to time the position of any disc indicating the load-line(c), and any alteration thereof, and may appoint fees to be taken in respect of any such approval or certificate(d).

(2.) The Board of Trade may make regulations (e)—

(a.) determining the lines or marks to be used in connexion with the disc(c), in order to indicate the maximum load-line under different circumstances and at different seasons(f), and declaring that this Part of this Act is to have effect as if any such line were drawn through the centre of the disc(c); and

(b) as to the mode in which the disc(c) and the lines or marks to be used in connexion therewith are to be marked or affixed on the ship, whether by painting, cutting, or otherwise; and

(c.) as to the mode of application for, and form of, certificates(g) under this section; and

(d.) requiring the entry of those certificates(g), and other particulars as to the draught of water and freeboard of the ship, in the official log-book(h) of the ship, or other publication thereof on board the ship, and requiring the delivery of copies of those entries.

(3.) All such regulations shall, while in force, have effect as if enacted in this Act(e), and if any person(i) fails(j) without reasonable cause to comply with any such regulation made with respect to the entry, publication, or delivery of copies of certificates(g) or other particulars as to the draught of water and freeboard of a ship, he shall for each offence be liable to a fine not exceeding one hundred pounds(k).

(4.) Where in pursuance of the regulations any such certificate(c) is required to be delivered, a statement in

(c) § 438.

(d) To go to Mercantile Marine Fund; § 716, s. 1.

(e) Printed in Appendix.

(f) i.e. winter North Atlantic load-line; Indian summer load-line, &c.

(g) See sub-s. 1.

(h) § 240.

(i) Includes corporations; Int. Act, 1889, §§ 2, 19.

(j) Includes refusal; § 742.

(k) How recovered, §§ 680-684; how applicable, §§ 699, 716.

writing as to the disc and deck-lines of a ship need not be inserted in the form of entry or transmitted or delivered to a chief officer of customs under the provisions hereinbefore contained (*l*).

444. Where the legislature(*m*) of any British possession(*n*) by any enactment provides for the fixing, marking, and certifying of load-lines on ships registered in that possession(*n*), and it appears to Her Majesty the Queen that that enactment is based on the same principles as the provisions of this Part of this Act relating to load-lines, and is equally effective for ascertaining and determining the maximum load-lines to which those ships can be safely loaded in salt water, and for giving notice of the load-line to persons interested, Her Majesty in Council(*o*) may declare that any load-line fixed and marked and any certificate given in pursuance of that enactment shall, with respect to ships so registered, have the same effect as if it had been fixed, marked, or given in pursuance of this Part of this Act(*p*).

Provision as to colonial ships with respect to load-lines. 53 Vict. c. 9, s. 3.

445.—(1.) Where the Board of Trade certify that the laws and regulations for the time being in force in any foreign country and relating to overloading and improper loading(*q*) are equally effective with the provisions of this Act relating thereto, Her Majesty in Council may direct that on proof of a ship of that country having complied with those laws and regulations, she shall not, when in a port(*r*) of the United Kingdom, be liable to detention for non-compliance with the said provisions of this Act(*q*), nor shall there arise any liability to any fine or penalty which would otherwise arise for non-compliance with those provisions.

Provision as to foreign ships with respect to load-lines. 53 Vict. c. 9, s. 4.

(*l*) §§ 440, 441.

(*m*) Int. Act, 1889, § 18, s. 7.

(*n*) Ibid. § 2.

(*o*) § 738.

(*p*) That is, in England, by supplying the place of the English load-line, it will prevent the owner from being fined under § 442, or his ship being detained under § 442, s. 2.

(*q*) The sections as to dangerous goods (§§ 446–450), and loading of timber (§ 451), and safety (§ 462), apply to foreign ships, and may be dispensed with under this section. Thus conformity with a recognized foreign load-line may prevent the ship from being detained as unsafe.

(*r*) Defined, § 742.

(2.) Provided that this section shall not apply in the case of ships of any foreign country in which it appears to Her Majesty that corresponding provisions are not extended to British ships (*s*).

Dangerous Goods (t).

Restrictions on carriage of dangerous goods. 36 & 37 Vict. c. 85, s. 23. : 8 & 39 Vict. c. 17, s. 42.

446.—(1.) A person (*u*) shall not send or attempt to send by any vessel (*x*), British (*s*) or foreign, and a person not being the master (*y*) or owner (*z*) of the vessel, shall not carry or attempt to carry in any such vessel, any dangerous goods (*a*), without distinctly marking their nature on the outside of the package containing the same, and giving written notice of the nature of those goods and of the name and address of the sender or carrier thereof to the master (*y*) or owner (*z*) of the vessel at or before the time of sending the same to be shipped or taking the same on board the vessel.

(2.) If any person fails (*b*) without reasonable cause to comply with this section, he shall for each offence be liable to a fine not exceeding one hundred pounds (*c*); or if he shows that he was merely an agent in the shipment of any such goods as aforesaid, and was not aware and did not suspect and had no reason to suspect that the goods shipped by him were of a dangerous nature (*a*), then not exceeding ten pounds.

(3.) For the purpose of this Part of this Act the expression “dangerous goods” means aquafortis, vitriol, naphtha, benzine, gunpowder, lucifer matches, nitroglycerine, petroleum, any explosives within the meaning of the Explosives Act, 1875 (*d*), and any other goods which are of a dangerous nature.

(*s*) Note to § 1.

(*t*) Cf. § 301.

(*u*) Includes corporations; Int. Act, 1889, §§ 2, 19.

(*x*) Wider than “ship;” see note

(*y*) to § 422; and § 742.

(*z*) Defined, § 742.

(*a*) § 58.

(*b*) Defined, § 446, s. 3. Cf. § 301.

(*c*) Includes refusal; § 742.

(*d*) How recovered, §§ 680–684;

how applicable, §§ 699, 716.

(*d*) 37 & 38 Vict. c. 17, s. 3, defines “explosive” as meaning gunpowder, nitroglycerine, dynamite, gun-cotton, blasting powders, fulminate of mercury or of other metals, coloured fires, and every other substance, whether similar to those above mentioned or not, used or manufactured to produce a practical effect by explosion, or a pyrotechnic effect, and

447. A person (*e*) shall not knowingly send or attempt to send by, or carry or attempt to carry in, any vessel (*f*), British (*g*) or foreign, any dangerous goods (*h*) under a false description, and shall not falsely describe the sender or carrier thereof, and if he acts in contravention of this section he shall for each offence be liable to a fine not exceeding five hundred pounds (*i*).

Penalty for misdescription of dangerous goods. 36 & 37 Vict. c. 85, s. 24.

448.—(1.) The master (*k*) or owner (*l*) of any vessel (*f*), British (*g*) or foreign, may refuse to take on board any package or parcel which he suspects to contain any dangerous goods (*h*), and may require it to be opened to ascertain the fact.

Power to deal with goods suspected of being dangerous. 36 & 37 Vict. c. 85, ss. 25, 26

(2.) Where any dangerous goods (*h*), or any goods, which, in the judgment of the master (*k*) or owner (*l*) of the vessel (*f*), are dangerous goods (*h*), have been sent or brought aboard any vessel (*f*), British (*g*) or foreign, without being marked as aforesaid (*m*), or without such notice having been given as aforesaid (*m*), the master or owner of the vessel may cause those goods to be thrown overboard, together with any package or receptacle in which they are contained; and neither the master (*k*) nor the owner (*l*) of the vessel shall be subject to any liability, civil or criminal, in any court for so throwing the goods overboard.

449.—(1.) Where any dangerous goods (*h*) have been sent or carried, or attempted to be sent or carried, on board any vessel (*f*), British (*g*) or foreign, without being marked as aforesaid (*m*), or without such notice having been given as aforesaid (*m*), or under a false description, or with a false description of the sender or carrier thereof, any court having Admiralty jurisdiction (*n*) may declare those goods,

Forfeiture of dangerous goods improperly sent or carried. 36 & 37 Vict. c. 85, s. 27.

includes fog-signals, fireworks, fuses, rockets, percussion caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined.

(*e*) Includes corporations; Int. Act, 1889, §§ 2, 19.

(*f*) Wider than "ship;" see note (*k*) to § 422; and § 712.

(*g*) Note to § 1.

(*h*) Defined, § 446, s. 3.

(*i*) Cannot be recovered summarily; must proceed by action or indictment.

(*k*) Defined, § 742.

(*l*) § 58, note.

(*m*) § 446, s. 1.

(*n*) The High Court or certain county courts in England.

and any package or receptacle in which they are contained, to be, and they shall thereupon be, forfeited, and when forfeited shall be disposed of as the court direct.

(2.) The court(*o*) shall have, and may exercise, the aforesaid powers of forfeiture and disposal notwithstanding that the owner of the goods has not committed any offence under the provisions of this Act(*p*) relating to dangerous goods(*q*), and is not before the court, and has not notice of the proceedings, and notwithstanding that there is no evidence to show to whom the goods belong; nevertheless the court may, in their discretion, require such notice as they may direct to be given to the owner or shipper of the goods before they are forfeited.

Saving for
other en-
actments
relating
to danger-
ous goods.
36 & 37
Vict. c. 58,
s. 28.

450. The provisions of this Part of this Act relating to the carriage of dangerous goods(*p*) shall be deemed to be in addition to and not in substitution for, or in restraint of, any other enactment for the like object, so nevertheless that nothing in the said provisions shall be deemed to authorize any person to be sued or prosecuted twice in the same matter.

Loading of Timber.

Loading of
timber.
39 & 40
Vict. c. 80,
s. 24.

451.—(1.) If a ship(*o*), British(*r*) or foreign, arrives between the last day of October and the sixteenth day of April in any year at any port(*o*) in the United Kingdom from any port(*o*) out of the United Kingdom, carrying as deck cargo, that is to say, in any uncovered space upon deck, or in any covered space not included in the cubical contents forming the ship's registered tonnage(*s*), any wood goods as herein-after defined(*t*), the master(*o*) of that ship, and also the owner(*u*), if he is privy to the offence, shall be liable to a fine not exceeding five pounds for every hundred cubic feet of wood goods carried in contravention of this section(*x*).

(*o*) Defined, § 742.

(*p*) §§ 446–449.

(*q*) This would be the case, if he was ignorant of the way his agents were sending the goods.

(*r*) Note to § 1.

(*s*) Schedule II, Rule I s. 5.

(*t*) Sub-s. 3.

(*u*) § 58, note.

(*x*) Procedure, up to fine of £100,

(2.) Provided that a master (*y*) or owner (*z*) shall not be liable to any fine under this section—

(a.) in respect of any wood goods which the master has considered it necessary to place or keep on deck during the voyage on account of the springing of any leak, or of any other damage to the ship received or apprehended; or

(b.) if he proves that the ship sailed from the port (*y*) at which the wood goods were loaded as deck cargo at such time before the last day of October as allowed a sufficient interval according to the ordinary duration of the voyage for the ship to arrive before that day at the said port (*y*) in the United Kingdom, but was prevented from so arriving by stress of weather or circumstances beyond his control; or

(c.) if he proves that the ship sailed from the port (*y*) at which the wood goods were loaded as deck cargo at such time before the sixteenth day of April as allowed a reasonable interval according to the ordinary duration of the voyage for the ship to arrive after that day at the said port (*y*) in the United Kingdom, and by reason of an exceptionally favourable voyage arrived before that day.

(3.) For the purposes of this section, the expression “wood goods” means—

(a.) any square, round, waney, or other timber, or any pitch pine, mahogany, oak, teak, or other heavy wood goods whatever; or

(b.) any more than five spare spars or store spars, whether or not made, dressed, and finally prepared for use; or

(c.) any deals, battens, or other light wood goods of any description to a height exceeding three feet above the deck.

(4.) Nothing in this section shall affect any ship (*y*) not bound to a port (*y*) in the United Kingdom which comes

§§ 680–684; beyond that by action or indictment; fine how applicable, §§ 699, 716.

(*y*) Defined, § 742.

(*z*) § 58.

into any port of the United Kingdom under stress of weather, or for repairs, or for any other purpose than the delivery of her cargo.

Carriage of Grain (a).

Obligation to take precautions to prevent grain cargo from shifting. 452.—(1.) Where a grain (a) cargo is laden on board any British (b) ship (c) all necessary and reasonable precautions (whether mentioned in this Part of this Act or not) shall be taken in order to prevent the grain (a) cargo from shifting.

(2.) If those precautions have not been taken in the case of any British (b) ship (c), the master (c) of the ship and any agent of the owner who was charged with the loading of the ship or the sending of her to sea, shall each be liable to a fine not exceeding three hundred pounds (d), and the owner (e) of the ship shall also be liable to the same fine (d), unless he shows that he took all reasonable means to enforce the observance of this section, and was not privy to the breach thereof.

Precautions against shifting of grain cargo laden in port in Mediterranean or Black Sea or on coast of North America. 453.—(1.) Where a British (b) ship (c) laden with a grain cargo (a) at any port (c) in the Mediterranean or Black Sea is bound to ports (c) outside the Straits of Gibraltar, or where a British (b) ship (c) is laden with a grain cargo (a) on the coast of North America, the precautions to prevent the grain (a) cargo from shifting, set out in the Eighteenth Schedule to this Act, shall be adopted, unless the ship is loaded in accordance with regulations for the time being approved by the Board of Trade, or is constructed and loaded in accordance with any plan approved by the Board of Trade.

(2.) If this section is not complied with in the case of any ship (c), reasonable precautions to prevent the grain cargo of that ship from shifting (f) shall be deemed not to have been taken, and the owner (e) and master (c) of the

(a) Defined, § 456.

(b) Note to § 1.

(c) Defined, § 742.

(d) Procedure up to fine of £100, §§ 680-684; beyond that by action or

indictment; fine how applicable, §§ 699, 716.

(e) § 58, note.

(f) § 452.

43 & 44
Vict. c. 48,
ss. 4, 5.

ship and any agent charged with loading her or sending her to sea shall be liable accordingly to a fine under this Part of this Act (*g*).

(8.) Nothing in this section shall exempt a person from any liability, civil or criminal, to which he would otherwise be subject for failing to adopt any reasonable precautions which, although not mentioned in this section, are reasonably required to prevent grain (*h*) cargo from shifting (*g*).

454.—(1.) Before a British (*i*) ship laden with grain cargo (*h*) at any port (*k*) in the Mediterranean or Black Sea and bound to ports (*k*) outside the Straits of Gibraltar, or laden with grain cargo (*h*) on the coast of North America, leaves her final port (*k*) of loading, or within forty-eight hours after leaving that port (*k*), the master (*k*) shall deliver or cause to be delivered to the British consular officer (*l*), or, if the port (*k*) is in a British possession (*m*), to the chief officer of customs (*k*), at that port (*k*), a notice stating—

Notice by
master of
kind and
quantity
of grain
cargo.
43 & 44
Vict. c. 43,
ss. 6, 7.

- (a.) the draught of water (*n*) and clear side (*o*), as defined by this Part of this Act, of the said ship after the loading of her cargo has been completed at the said final port (*k*) of loading; and
- (b.) the following particulars in respect to the grain cargo; namely,
 - (i.) the kind of grain (*h*) and the quantity thereof, which quantity may be stated in cubic feet, or in quarters, or bushels, or in tons weight; and
 - (ii.) the mode in which the grain cargo is stowed; and
 - (iii.) the precautions taken against shifting.

(2.) The master (*k*) shall also deliver a similar notice to the proper officer of customs in the United Kingdom, together with the report required to be made by the

(*g*) § 452.

(*h*) Defined, § 456.

(*i*) Note to § 1.

(*k*) Defined, § 742.

(*l*) Int. Act, 1889, § 12, s. 20.

(*m*) Int. Act, 1889, § 18, s. 2.

(*n*) § 436, s. 1

(*o*) § 436, s. 5.

Customs Consolidation Act, 1876 (*p*), on the arrival of the ship in the United Kingdom.

(3.) Every such notice shall be sent to the Board of Trade, as soon as practicable, by the officer receiving the same.

(4.) If the master (*q*) fails (*r*) to deliver any notice required by this section (*s*), or if in any such notice he wilfully makes a false statement or wilfully omits a material particular, he shall for each offence be liable to a fine not exceeding one hundred pounds (*t*).

(5.) The Board of Trade may, by notice published in the London Gazette, or in such other way as the Board think expedient, exempt ships (*q*) laden at any particular port (*q*) or any class of those ships from this section.

Power of
Board of
Trade for
enforcing
provisions
as to car-
riage of
grain.
43 & 44
Vict. c. 43,
s. 8.

Definition
of grain,
&c.
43 & 44
Vict. c. 43,
s. 10.

455. For securing the observance of the provisions of this Part of this Act with respect to grain cargo, any officer having authority in that behalf from the Board of Trade, either general or special, shall have power to inspect any grain (*u*) cargo, and the mode in which the same is stowed, and for that purpose shall have all the powers of a Board of Trade inspector under this Act (*r*).

456. For the purpose of the provisions of this Part of this Act with respect to grain cargo—

The expression “grain” means any corn, rice, paddy, pulse, seeds, nuts, or nut kernels.

The expression “ship laden with a grain cargo” means a ship (*q*) carrying a cargo of which the portion consisting of grain is more than one-third of the registered tonnage of the ship, and that third shall be computed, where the grain is reckoned in measures of capacity, at the rate of one hundred cubic feet for each ton of registered tonnage, and where the grain is reckoned in measures of weight, at the rate of two tons weight for each ton of registered tonnage.

(*p*) 39 & 40 Vict. c. 36, § 50.

(*q*) Defined, § 742.

(*r*) Includes refusal; § 742.

(*s*) Sub-ss. 1, 2.

(*t*) How recoverable, §§ 680-684 ;
fine how applicable, §§ 699, 716.

(*u*) Defined, § 456.

(*x*) §§ 728-730.

Unseaworthy (y) Ships.

457.—(1.) If any person (a) sends (b) or attempts to send, or is party to sending or attempting to send, a British (c) ship to sea in such an unseaworthy state (y) that the life of any person is likely to be thereby endangered, he shall in respect of each offence be guilty of a misdemeanor (d), unless he proves either that he used all reasonable means to insure her being sent to sea in such a seaworthy state, or that her going to sea in such an unseaworthy state was, under the circumstances, reasonable and justifiable, and for the purpose of giving that proof he may give evidence in the same manner as any other witness.

(2.) If the master (e) of a British (f) ship (e) knowingly takes the same to sea in such an unseaworthy state (y) that the life of any person is likely to be thereby endangered, he shall in respect of each offence be guilty of a misdemeanor (d), unless he proves that her going to sea in such an unseaworthy state was, under the circumstances, reasonable and justifiable, and for the purpose of giving

(y) A ship to be seaworthy must be in a fit state as to repairs, equipment, and crew, and in all other respects to encounter the ordinary perils of the voyage she is entering on, or, where the voyage is made in stages, of that stage she is commencing. *Dixon v. Sadler* (1839), 5 M. & W. 405; *per Parke, B.; Biccard v. Shepherd* (1861), 14 Moore P. C. 471; and *Thin v. Richards* (1892), 2 Q. B. 141; also *Scrutton on Charterparties*, Art. 29. Seaworthiness in this Act is to have no other meaning in this Act from its meaning in other shipping law, and if the ship is safe, a defect in her condition which might imperil the safety of an individual would not be unseaworthiness. See *Hedley v. Pinkney S. S. Co.* (1894), A. C. 222, where a vessel was held not unseaworthy because certain railings which made it safer for the crew to work her, were not fitted; otherwise it would have seemed that as seaworthiness includes a warranty that the ship is fit to carry her cargo, it would also cover a warranty that the ship is fit

to carry her crew. The fact that the load-line is submerged, though reasonable and probable cause for detention under § 438, does not in itself make the ship unseaworthy if, in fact, she is not; she is only deemed "unsafe" for the purposes of § 459. See *per Lord Esher in Hedley's Case*, *vide supra*, at pp. 63, 64.

(a) Includes corporations; Int. Act, 1889, §§ 2, 19.

(b) Knowledge of the unseaworthiness need not here be proved; it must under sub-s. 2. The section does not appear to apply to failure to remedy unseaworthiness at sea; compare with § 458, s. 1.

(c) See note to § 1: § 457, s. 5, limits the British ships to which this section is applicable. Foreign ships are dealt with by § 462.

(d) This cannot be prosecuted summarily; see sub-s. 4. The procedure must be by indictment: as to necessary consents, see sub-s. 3.

(e) Defined, § 742.

(f) Notes to § 1; as to foreign ships, see § 462.

Sending unseaworthy ship to sea a misdemeanor. 39 & 40 Vict. c. 80. ss. 4, 41, 44.

such proof he may give evidence in the same manner as any other witness.

(3.) A prosecution under this section shall not, except in Scotland (*i*), be instituted otherwise than by, or with the consent of, the Board of Trade, or of the governor (*k*) of the British possession (*l*) in which the prosecution takes place.

(4.) A misdemeanor under this section shall not be punishable upon summary conviction (*m*).

(5.) This section shall not apply to any ship (*n*) employed exclusively in trading or going from place to place in any river or inland water of which the whole or part is in any British possession (*l*).

Obligation of shipowner to crew with respect to use of reasonable efforts to secure seaworthiness.
39 & 40
Vict. c. 80,
ss. 5, 44.

458.—(1.) In every contract of service, express or implied, between the owner (*o*) of a ship (*n*) and the master (*n*) or any seaman (*n*) thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any ship (*p*), there shall be implied, notwithstanding any agreement to the contrary (*q*), an obligation (*r*) on the owner (*o*) of the ship, that the owner (*o*) of the ship, and the master (*n*), and every agent charged with the loading of the ship, or the preparing of the ship for sea, or the sending of the ship to sea, shall use all reasonable means to insure the seaworthiness (*s*) of the ship for the voyage at the time when the voyage commences, and to keep her in a seaworthy (*s*) condition for the voyage during the voyage (*t*).

(2.) Nothing in this section—

(a.) shall subject the owner (*o*) of a ship (*n*) to any liability by reason of the ship being sent to sea in an unseaworthy state where, owing to special circumstances,

(i) No consent is necessary in Scotland.

(k) Int. Act, 1889, § 18, s. 6.

(l) Ibid. s. 2.

(m) This excludes the operation of §§ 680-684.

(n) Defined, § 742.

(o) Note to § 58.

(p) §§ 105-109.

(q) § 113, s. 3.

(r) There was no such obligation at common law; cf. *Couch v. Steel* (1854), 3 E. & B. 402. Breach of this obligation gives a right of action to the seaman or apprentice.

(s) See note (y) to § 457, s. 1.

(t) This continuing warranty also exists in charters and bills of lading; see Scrutton on Charters, Art. 29.

the sending of the ship to sea in such a state was reasonable and justifiable; or

- (b.) shall apply to any ship (*u*) employed exclusively in trading or going from place to place in any river or inland water of which the whole or part is in any British possession (*x*).

459 (y).—(1.) Where a British (*z*) ship (*u*), being in any port (*u*) in the United Kingdom, is an unsafe ship (*a*), that is to say, is by reason of the defective condition of her hull, equipments, or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended (*b*), such ship may be provisionally detained for the purpose of being surveyed, and either finally detained or released as follows:—

Power to detain unsafe ships, and procedure for detention. 39 & 40 Vict. c. 80, ss. 6, 12, 39.

- (a.) The Board of Trade, if they have reason to believe, on complaint or otherwise, that a British (*z*) ship (*u*) is unsafe (*a*), may order the ship to be provisionally detained as an unsafe ship for the purpose of being surveyed.
- (b.) When a ship has been provisionally detained (*c*) there shall be forthwith served (*d*) on the master (*u*) of the ship a written statement of the grounds of her detention (*e*), and the Board of Trade may, if they think fit, appoint some competent person or persons to survey the ship and report thereon to the Board.
- (c.) The Board of Trade on receiving the report may either order the ship to be released or, if in their opinion the ship is unsafe, may order her to be finally detained, either absolutely, or until the performance

(*u*) Defined, 742.

(*x*) Int. Act, 1889, § 18, s. 2.

(*y*) See the careful discussion of this and the following clause, in *Thompson v. Farrer* (1882), 9 Q. B. D. 372; and note (*d*) to § 460, *post*.

(*z*) Note to § 1; as to foreign ships, see § 462.

(*a*) A ship with her load-line submerged is deemed unsafe; see § 439.

(*b*) This will include the home-

ward as well as the outward voyage. *Thompson v. Farrer* (1882), 9 Q. B. D. at p. 379.

(*c*) Sub-s. (*a*).

(*d*) Mode of service, § 696; obstructing service of such notice, § 696, s. 2.

(*e*) The Board are not limited to these grounds in defending an action under § 460. *Thompson v. Farrer* (1882), 9 Q. B. D. at p. 382.

of such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo, as the Board think necessary for the protection of human life, and the Board may vary or add to any such order.

(d.) Before the order for final detention (f) is made a copy of the report shall be served (g) upon the master (h) of the ship, and within seven days after that service the owner or master of the ship may appeal to the court of survey (i) for the port (h) or district where the ship is detained in manner directed by the rules of that court.

(e.) Where a ship has been provisionally detained (k), the owner (l) or master (h) of the ship, at any time before the person appointed under this section (m) to survey the ship makes that survey, may require that he shall be accompanied by such person as the owner or master may select out of the list of assessors for the court of survey (i), and in that case if the surveyor and assessor agree, the Board of Trade shall cause the ship to be detained or released accordingly, but if they differ, the Board of Trade may act as if the requisition had not been made, and the owner (l) and master (h) shall have the like appeal touching the report of the surveyor as is before provided by this section (n).

f.) Where a ship has been previously detained, the Board of Trade may at any time, if they think it expedient, refer the matter to the court of survey (i) for the port or district where the ship is detained.

(g.) The Board of Trade may at any time, if satisfied that a ship detained under this section is not unsafe (o), order her to be released either upon or without any conditions.

(2.) Any person appointed by the Board of Trade for the

(f) Sub-s. (c.).

(g) Mode of service, § 696; obstructing service of such notice, § 696, s. 2.

(h) Defined, § 742.

(i) § 487.

(k) Sub-s. (a.).

(l) Note to § 58.

(m) Sub-s. (b.).

(n) Sub-s. (d.).

(o) Sub-s. 1.

purpose (in this Act referred to as a detaining officer (*q*)) shall have the same power as the Board have under this section of ordering the provisional detention of a ship for the purpose of being surveyed (*r*), and of appointing a person or persons to survey her; and if he thinks that a ship so detained by him is not unsafe may order her to be released.

(3.) A detaining officer (*s*) shall forthwith report to the Board of Trade any order made by him for the detention or release of a ship (*t*).

(4.) An order for the detention of a ship, provisional (*r*) or final (*u*), and an order varying the same, shall be served (*x*) as soon as may be on the master (*t*) of the ship.

(5.) A ship detained under this section (*y*) shall not be released by reason of her British register being subsequently closed (*z*).

(6.) The Board of Trade may with the consent of the Treasury appoint fit persons to act as detaining officers (*s*) under this section, and may remove any such officer; and a detaining officer (*s*) shall be paid such salary or remuneration (if any) out of money provided by Parliament as the Treasury direct, and shall for the purpose of his duties have all the powers of a Board of Trade inspector under this Act (*a*).

(7.) A detaining officer (*s*) and a person authorized to survey a ship under this section (*b*) shall for that purpose have the same power as a person appointed by a court of survey to survey a ship (*c*), and the provisions of this Act with respect to the person so appointed (*c*) shall apply accordingly.

460.—(1.) If it appears that there was not reasonable and probable cause (*d*), by reason of the condition of the ship or the act or default of the owner, for the provisional

Liability
for costs
and dam-
ages.
39 & 40
Vict. c. 80,
ss. 10, 41,
42.

(*q*) Not the same person as the surveyor under § 459, s. 1 (*b*).

(*r*) § 459, s. 1 (*a*).

(*s*) § 459, s. 2.

(*t*) Defined, § 742.

(*u*) § 459, s. 1 (*c*).

(*x*) Mode of service, § 696; obstructing service, § 696, s. 2.

(*y*) Sub-s. 1 (*a*) and (*c*).

(*z*) § 21.

(*a*) §§ 728-730.

(*b*) § 459, s. 1 (*b*).

(*c*) § 488.

(*d*) The test is not whether the ship was, in fact, safe or unsafe, nor whether the facts as represented to

detention of a ship under this Part of this Act as an unsafe ship (*f*), the Board of Trade shall be liable to pay to the owner (*g*) of the ship his costs of and incidental to the detention and survey of the ship (*h*), and also compensation for any loss or damage sustained by him by reason of the detention or survey (*i*).

(2.) If a ship (*k*) is finally detained under this Act (*l*), or if it appears that a ship provisionally detained (*m*) was, at the time of that detention, an unsafe ship within the meaning of this Part of this Act (*h*), the owner (*g*) of the ship shall be liable to pay to the Board of Trade their costs (*n*) of and incidental to the detention and survey of the ship (*h*), and those costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable (*o*).

(3.) For the purpose of this section the costs of and incidental to any proceeding before a court of survey (*p*), and a reasonable amount in respect of the remuneration of the surveyor (*m*) or officer (*q*) of the Board of Trade, shall be part of the costs of the detention and survey of the ship, and any dispute as to the amount of those costs may be referred to one of the officers following, namely, in England or Ireland to one of the masters or registrars of the High Court (*r*), and in Scotland to the Auditor of the Court of Session, and the officer shall, on request by the Board of Trade, ascertain and certify the proper amount of those costs.

the Board of Trade constituted reasonable and probable cause for detention; but whether the actual facts existing, whether known to the Board of Trade or not, including the previous history of the ship, were reasonable and probable cause on which people acting reasonably would have detained the ship. Cotton, L. J., frames the question, "Would a reasonable man, with a competent knowledge of ships, have believed from the actual condition of the ship or her actual history that she was unsafe?" This question is one for the jury, and not for the judge. *Thompson v. Farrer* (1882), 9 Q. B. at pp. 381, 383, 385.

(*f*) § 459, s. 1 (*a*).

(*g*) Note to § 58.

(*h*) § 459, s. 1.

(*i*) But not damages for injury to his reputation as a shipowner. *Dixon v. Calcraft* (1892), 1 Q. B. 458.

(*k*) Defined, § 742.

(*l*) § 459, s. 1 (*c*).

(*m*) § 459, s. 1 (*b*).

(*n*) Sub-s. 3.

(*o*) § 547, and see sub-s. 3 of this section.

(*p*) § 487.

(*q*) Not the same persons as the surveyors under § 459, s. 1 (*b*); see § 460, s. 2.

(*r*) Int. Act, 1889, § 13, s. 3; of the Adm. Div. see M. S. Rules, 1894, Appendix.

(4.) An action for any costs or compensation payable by the Board of Trade under this section may be brought against the Secretary of that Board by his official title as if he were a corporation sole (s), and if the cause of action arises in Ireland, and the action is brought in the High Court, that Court may order that the summons or writ may be served on the Crown and Treasury Solicitor for Ireland in such manner and on such terms respecting extension of time and otherwise as the Court thinks fit, and that that service shall be sufficient service of the summons or writ upon the Secretary of the Board of Trade.

461.—(1.) Where a complaint is made to the Board of Trade or a detaining officer (t) that a British ship (u) is unsafe, the Board or officer may, if they or he think fit, require the complainant to give security to the satisfaction of the Board for the costs and compensation which he may become liable to pay as herein-after mentioned (x). Power to require from complainant security for costs. 39 & 40 Vict. c. 80, 11.

(2.) Provided that such security shall not be required where the complaint is made by one fourth, being not less than three, of the seamen (y) belonging to the ship (y), and is not in the opinion of the Board or officer frivolous or vexatious, and the Board or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained (z).

(3.) Where a ship is detained in consequence of any complaint, and the circumstances are such that the Board of Trade are liable under this Act to pay to the owner of the ship any costs or compensation (a), the complainant shall be liable to pay to the Board of Trade all such costs and compensation as the Board incur or are liable to pay in respect of the detention and survey of the ship (a).

(s) Such an action is within the Crown Suits Act, 1865 (28 & 29 Vict. c. 104): *Dixon v. Farrer* (1886), 8 Q. B. D. 43. Consequently, the Attorney-General may demand a trial at bar, or, waiving that, may lay the venue in any county he pleases.

(t) Not the same person as the surveyor under § 459, s. 1 (h.), see

§ 460, s. 2.

(u) Note to § 1; foreign ships are under § 462.

(x) Sub-s. 3, *sub.*

(y) Defined, § 742.

(z) *Semble*, he should do this in any case.

(a) § 460, s. 1.

Applica-
tion to
foreign
ships of
provisions
as to de-
tention.
39 & 40
Vict. c. 80,
s. 13.

462. Where a foreign (*a*) ship (*b*) has taken on board all or any part of her cargo at a port (*b*) in the United Kingdom, and is whilst at that port unsafe (*c*) by reason of over-loading or improper loading, the provisions of this Part of this Act with respect to the detention of ships (*c*) shall apply to that foreign ship as if she were a British ship, with the following modifications:—

- (i.) a copy of the order for the provisional detention of the ship (*d*) shall be forthwith served on the consular officer (*b*) for the country to which the ship belongs at or nearest to the said port (*b*);
- (ii.) where a ship has been provisionally detained (*d*), the consular officer (*b*), on the request of the owner (*e*) or master (*b*) of the ship, may require that the person appointed by the Board of Trade to survey the ship (*f*) shall be accompanied by such person as the consular officer may select, and in that case, if the surveyor and that person agree, the Board of Trade shall cause the ship to be detained or released accordingly, but if they differ, the Board of Trade may act as if the requisition had not been made, and the owner and master shall have the like appeal to a court of survey (*g*) touching the report of the surveyor as is herein-before provided (*h*) in the case of a British ship; and
- (iii.) where the owner (*e*) or master (*b*) of the ship appeals to the court of survey (*g*), the consular officer (*b*), on his request (*i*), may appoint a competent person to be assessor in the case in lieu of the assessor who, if the ship were a British ship, would be appointed otherwise than by the Board of Trade (*k*).

Survey of
ships
alleged by
seamen to

463.—(1.) Whenever in any proceeding against any seaman (*b*) or apprentice (*l*) belonging to any ship (*b*) for the

- (a) This applies to foreign ships, though no Order in Council has been made under § 734; *Chalmers v. Scopenich* (1892), 1 Q. B. D. 735.
- (b) Defined, § 742.
- (c) Cf. § 459, s. 1.
- (d) § 459, s. 1 (α.).
- (e) Notes to § 58.

- (f) § 459, s. 1 (b.).
- (g) § 487.
- (h) § 459, s. 1 (d.).
- (i) i.e. the owner's or master's; cf. the section repealed.
- (k) § 487, s. 3.
- (l) §§ 105–109.

offence of desertion (*m*), or absence without leave (*m*), or for otherwise being absent from his ship without leave, it is alleged by one fourth, or if their number exceeds twenty by not less than five, of the seamen (*n*) belonging to the ship, that the ship is by reason of unseaworthiness (*o*), overload- ing, improper loading, defective equipment, or for any other reason, not in a fit condition to proceed to sea, or that the accommodation in the ship is insufficient, the court having cognizance of the case shall take such means as may be in their power to satisfy themselves concerning the truth or untruth of the allegation, and shall for that purpose receive the evidence of the persons making the same, and may summon any other witnesses whose evidence they may think it desirable to hear, and shall, if satisfied that the allegation is groundless, adjudicate in the case, but if not so satisfied shall before adjudication cause the ship to be surveyed (*p*).

(2.) A seaman (*n*) or apprentice (*q*) charged with desertion (*m*), or with quitting his ship without leave (*r*), shall not have any right to apply for a survey under this section unless he has before quitting his ship complained to the master (*n*) of the circumstances so alleged in justification.

(3.) For the purposes of this section the court (*n*) shall require any surveyor of ships appointed under this Act (*s*), or any person appointed for the purpose by the Board of Trade, or, if such a surveyor or person cannot be obtained without unreasonable expense or delay, or is not, in the opinion of the court, competent to deal with the special circumstances of the case, then any other impartial surveyor appointed by the court, and having no interest in the ship, her freight, or cargo, to survey the ship, and to answer any question concerning her which the court think fit to put.

(4.) Such surveyor or other person shall survey the ship, and make his written report to the court, including

(*m*) § 221.

(*n*) Defined, § 742.

(*o*) See note (*y*) to § 457.

(*p*) As provided in sub-s. 3.

(*q*) §§ 105-109.

(*r*) §§ 221, 225.

(*s*) §§ 724-726.

an answer to every question put to him by the court, and the court shall cause the report to be communicated to the parties, and, unless the opinions expressed in the report are proved to the satisfaction of the court to be erroneous, shall determine the questions before them in accordance with those opinions.

(5.) Any person making a survey under this section shall for the purposes thereof have all the powers of a Board of Trade inspector under this Act (*u*).

(6.) The costs (if any) of the survey shall be determined by the Board of Trade according to a scale of fees to be fixed by them, and shall be paid in the first instance out of the Mercantile Marine Fund (*x*).

(7.) If it is proved that the ship (*y*) is in a fit condition to proceed to sea, or that the accommodation is sufficient, as the case may be, the costs of the survey shall be paid by the person upon whose demand, or in consequence of whose allegation the survey was made (*z*), and may be deducted (*a*) by the master (*y*) or owner (*b*) out of the wages (*y*) due or to become due to that person, and shall be paid over to the Board of Trade.

(8.) If it is proved that the ship (*y*) is not in a fit condition to proceed to sea, or that the accommodation is insufficient, as the case may be, the master (*y*) or owner (*b*) of the ship shall pay the costs of the survey to the Board of Trade, and shall be liable to pay to the seaman (*y*) or apprentice (*c*), who has been detained in consequence of the said proceeding before the court under this section, such compensation for his detention as the court may award.

(*u*) §§ 728-730.

(*x*) § 670, s. (a.).

(*y*) Defined, § 742.

(*z*) Sub-s. 1.

(*a*) § 152.

(*b*) Notes to § 58.

(*c*) §§ 105-109.

PART VI.

1854 = 17 & 18 Vict. c. 104.

1862 = 25 & 26 Vict. c. 63.

1883 = 46 & 47 Vict. c. 41.

Int. Act, 1889 = Interpretation Act, 1889 (52 & 53 Vict. c. 63); and see Appendix.

Marginal references are to sections reproduced.

PRELIMINARY NOTE TO PART VI.

SPECIAL SHIPPING INQUIRIES AND COURT.

THE various provisions of the consolidated statutes relating to tribunals created for the purposes of the Act are collected in this Part, those relating to legal proceedings in the ordinary courts being contained in Part XIII.

Section 465 provides for preliminary investigations into shipping casualties as defined by § 464, and § 466 for formal investigations. Section 470 provides for the courts that may cancel or suspend certificates of officers, and § 471 for inquiries into the conduct of officers, at the initiative of the Board of Trade. Naval courts are regulated by §§ 480-486, and courts of survey by §§ 487-489. A wreck commissioner, now in abeyance, may be appointed under § 477. General rules for court procedure may be made by the Lord Chancellor (§§ 479, 489), and are printed in the Appendix.

PART VI.

ARRANGEMENT OF SECTIONS.

SPECIAL SHIPPING INQUIRIES AND COURTS.

Inquiries and Investigations as to Shipping Casualties.

Section.

- 464. Shipping casualties (p. 358).
- 465. Preliminary inquiry into shipping casualties (p. 359).
- 466. Formal investigation of shipping casualties (p. 359).
- 467. List of assessors (p. 362).
- 468. Inquiry in case of loss of life from fishing vessel's boat (p. 362).

Power as to Certificates of Officers, &c.

- 469. Power of Board of Trade as to certificate (p. 362).
- 470. Power of court of investigation or inquiry as to certificates (p. 362).
- 471. Inquiry into conduct of certificated officer (p. 364).
- 472. Removal of master by Admiralty Court (p. 365).
- 473. Delivery of certificate cancelled or suspended (p. 366).
- 474. Power of Board of Trade to restore certificate (p. 366).

Rehearing of Investigations and Inquiries.

- 475. Rehearing of inquiries and investigations (p. 366).

Supplemental Provisions as to Investigations and Inquiries.

- 476. Investigations before stipendiary magistrate (p. 368).
- 477. Power to appoint wreck commissioners (p. 368).
- 478. Authority for colonial court to make inquiries into shipping casualties and conduct of officers (p. 368).
- 479. Rules as to investigations and inquiries (p. 371).

Naval Courts on the High Seas and Abroad.

- 480. Cases in which naval courts may be summoned (p. 371).
- 481. Constitution of naval courts (p. 372).
- 482. Functions of naval courts (p. 372).
- 483. Powers of naval courts (p. 372).
- 484. Report of proceedings of naval courts (p. 375).

- 485. Penalty for preventing complaint or obstructing investigation (p. 375).
- 486. Application of provisions as to naval courts (p. 376).

Courts of Survey.

- 487. Constitution of court of survey (p. 376).
- 488. Power and procedure of court of survey (p. 378).
- 489. Rules for procedure of court of survey, &c. (p. 378).

Scientific Referees.

- 490. Reference in difficult cases to scientific persons (p. 379).

Payments to Officers of Courts.

- 491. Payments to officers of courts (p. 380).
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1854 = 17 & 18 Vict. c. 104.

1862 = 25 & 26 Vict. c. 63.

1883 = 46 & 47 Vict. c. 41.

Int. Act, 1889 = Interpretation Act, 1889 (52 & 53 Vict. c. 63); and see Appendix.

Marginal references are to sections reproduced.

PART VI.

SPECIAL SHIPPING INQUIRIES AND COURTS.

Inquiries and Investigations as to Shipping Casualties.

Shipping
casualties.
1854,
s. 432.
39 & 40
Vict. c. 80,
s. 82.

464. For the purpose of inquiries and investigations under this Part of this Act a shipping casualty shall be deemed to occur (a):—

- (1.) when on or near the coasts of the United Kingdom any ship (b) is lost, abandoned, or materially damaged (c);
- (2.) when on or near the coasts of the United Kingdom any ship (c) has been stranded or damaged, and any witness is found in the United Kingdom;
- (3.) when on or near the coasts of the United Kingdom

(a) The following seven heads are unnecessarily long and confused. No inquiry can be held in the United Kingdom unless a witness is found in the United Kingdom; and this section apparently only contemplates inquiries in the United Kingdom, § 478 dealing with inquiries elsewhere. Sub-ss. 1 and 2 really cover the same ground; sub-s. 5 covers both of them. The sub-sections could be condensed as follows:—

“When in any place any ship has been lost, abandoned, or damaged in

any way, or when any British ship is supposed to have been lost, and any evidence as to such shipping casualty is obtainable in the United Kingdom,” &c.

(b) See § 742. A fishing craft has been held a ship hereunder. See *Ex parte Ferguson* (1871), L. R. 6 Q. B. at p. 291.

(c) In view of the limitation of sub-ss. 6 and 7 to British ships, the other sub-sections will probably be construed to cover foreign ships.

any ship (*d*) causes loss or material damage to any other ship (*d*) ;

(4.) when any loss of life ensues by reason of any casualty happening to or on board any ship (*d*) on or near the coasts of the United Kingdom ;

(5.) when in any place any such loss, abandonment, material damage, or casualty as above mentioned occurs, and any witness is found in the United Kingdom ;

(6.) when in any place any British (*e*) ship (*f*) is stranded or damaged, and any witness is found in the United Kingdom ;

(7.) when any British (*e*) ship (*f*) is lost or is supposed to have been lost, and any evidence is obtainable in the United Kingdom as to the circumstances under which she proceeded to sea or was last heard of.

465.—(1.) Where a shipping casualty (*g*) has occurred a preliminary inquiry may be held respecting the casualty by the following persons, namely :—

(a.) where the shipping casualty occurs (*g*) on or near the coasts of the United Kingdom, by the inspecting officer of the coastguard or chief officer of customs (*f*) residing at or near the place at which the casualty occurs ; or

(b.) where the shipping casualty (*g*) occurs elsewhere, by the inspecting officer of the coastguard or chief officer of customs (*f*) residing at or near any place at which the witnesses with respect to the casualty arrive or are found or can be conveniently examined ; or

(c.) in any case by any person appointed for the purpose by the Board of Trade.

(2.) For the purpose of any such inquiry the person holding the same shall have the powers of a Board of Trade inspector under this Act (*h*).

466.—(1.) A person authorized as aforesaid to make a preliminary inquiry (*i*) shall in any case where it appears

Preliminary inquiry into shipping casualties. 1854, s. 432. 39 & 40 Vict. c. 80, s. 32.

Formal investigation of

(*d*) See note (*c*), p. 358.

(*e*) Note to § 1.

(*f*) Defined, § 742.

(*g*) § 464.

(*h*) §§ 728-730.

(*i*) § 465.

shipping casualties.
1854,
ss. 433,
436, 437.
39 & 40
Vict. c. 80,
ss. 29, 30,
33.
42 & 43
Vict. c. 72,
s. 3.

to him requisite or expedient (whether upon a preliminary inquiry or without holding such an inquiry) that a formal investigation should be held, and in any case where the Board of Trade so directs, apply to a court of summary jurisdiction (*k*) to hold a formal investigation, and that court shall thereupon hold the formal investigation.

(2.) A wreck commissioner appointed under this Act (*l*) shall at the request of the Board of Trade hold any formal investigation into a shipping casualty (*m*) under this section, and any reference to the court holding an investigation under this section includes a wreck commissioner (*l*) holding such an investigation.

(3.) The court (*n*) holding any such formal investigation (*o*) shall hold the same with the assistance of one or more assessors of nautical, engineering, or other special skill or knowledge, to be appointed out of a list of persons for the time being approved for the purpose by a Secretary of State (*p*) in such manner and according to such regulations as may be prescribed by rules made under this Part of this Act with regard thereto (*q*).

(4.) Where a formal investigation (*o*) involves or appears likely to involve any question as to the cancelling or suspension of the certificate (*r*) of a master (*n*), mate, or engineer, the court shall hold the investigation with the assistance of not less than two assessors having experience in the merchant service (*s*).

(5.) It shall be the duty of the person who has applied (*t*) to a court to hold a formal investigation to superintend the management of the case, and to render such assistance to the court as is in his power.

(6.) The court (*n*) after hearing the case shall make a report to the Board of Trade containing a full statement of the case and of the opinion of the court thereon, accompanied by such report of, or extracts from, the evidence, and such observations as the court think fit.

(*k*) Int. Act, 1889, § 13, s. 12.

(*l*) § 477.

(*m*) § 464.

(*n*) Defined, § 742.

(*o*) § 466, ss. 1, 2.

(*p*) Int. Act, 1889, § 12, s. 3.

(*q*) § 479 provides for rules; and see App. VIII.

(*r*) §§ 92, *et seq.*

(*s*) Cf. § 470, s. 1 (*a*).

(*t*) § 466, s. 1.

(7.) Each assessor (*x*) shall either sign the report or state in writing to the Board of Trade his dissent therefrom and the reasons for that dissent.

(8.) The court (*y*) may make such order as the court think fit respecting the costs of the investigation, or any part thereof, and such order shall be enforced by the court as an order for costs under the Summary Jurisdiction Acts (*z*).

(9.) The Board of Trade may, if in any case they think fit so to do, pay the costs of any such formal investigation.

(10.) For the purposes of this section the court holding a formal investigation (*a*) shall have all the powers of a court of summary jurisdiction (*b*) when acting as a court in exercise of their ordinary jurisdiction (*c*).

(11.) Every formal investigation (*a*) into a shipping casualty (*d*) shall be conducted in such manner that if a charge is made against any person, that person shall have an opportunity of making a defence.

(12.) Formal investigations (*a*) into shipping casualties (*d*) under this section shall be held in some town hall, assize or county court, or public building, or in some other suitable place to be determined according to rules made under this Part of this Act with regard thereto (*e*), and, unless no other suitable place is in the opinion of the Board of Trade available, shall not be held in a court ordinarily used as a police court, and all enactments relating to the court shall for the purposes of the investigation have effect as if the place at which the court is held were a place appointed for the exercise of the ordinary jurisdiction of the court (*c*).

(13.) Where an investigation is to be held in Scotland, the Board of Trade may remit the same to the Lord Advocate to be prosecuted in such manner as he may direct.

467.—(1.) The list of persons approved as assessors (*f*)

- (*x*) § 466, ss. 3, 4.
- (*y*) Defined, § 742.
- (*z*) Cf. 11 & 12 Vict. c. 43, ss. 18, 24; 42 & 43 Vict. c. 49, ss. 47, 49.
- (*a*) § 466, ss. 1, 2.
- (*b*) Int. Act, 1889, § 13, s. 12.

- (*c*) See Summary Jurisdiction Acts, Gill and Douglas, 7th edit.
- (*d*) § 461.
- (*e*) § 479 provides for rules.
- (*f*) § 466, ss. 3, 4.

List of
assessors.
42 & 43
Vict. c. 72,
s. 3.

for the purpose of formal investigations (*g*) into shipping casualties (*h*) shall be in force for three years only, but persons whose names are on any such list may be approved for any subsequent list.

(2.) The Secretary of State (*i*) may at any time add or withdraw the name of any person to or from the list.

(3.) The list of assessors in force at the passing of this Act shall, subject as aforesaid, continue in force till the end of the year one thousand eight hundred and ninety-five.

Inquiry in
case of loss
of life from
fishing
vessel's
boat.
50 Vict.
sess. 2,
c. 4, s. 12.

468. When any loss of life arises by reason of any casualty (*h*) happening to or on board any boat belonging to a fishing vessel (*k*), the Board of Trade may, if they think fit, cause an inquiry to be made or a formal investigation to be held as in the case of a shipping casualty (*g*), and the provisions of this Act relating thereto shall apply accordingly (*l*).

Power as to Certificates (m) of Officers, &c.

Power of
Board of
Trade as
to certifi-
cate.

1854,
s. 242 (4).

1862, s. 23.

Power of
court of
investi-
gation or
inquiry as
to certifi-
cates.

1854,
s. 242.

1862,

ss. 11, 23.

1883, s. 39.

469. The Board of Trade may suspend or cancel the certificate (*m*) of any master (*n*), mate, or engineer if it is shown that he has been convicted of any offence.

470.—(1.) The certificate (*m*) of a master (*n*), mate, or engineer may be cancelled or suspended—

(a.) by a court holding a formal investigation (*g*) into a shipping casualty under this Part of this Act (*o*), or by a naval court constituted under this Act (*p*), if the court find that the loss or abandonment of, or serious damage to, any ship, or loss of life (*q*), has been caused

(*g*) § 466, ss. 1, 2.

(*h*) § 464.

(*i*) Int. Act, 1889, § 12, s. 3.

(*k*) See Part IV. of this Act.

(*l*) §§ 464-468.

(*m*) §§ 92, *et seq.*

(*n*) Defined, § 742.

(*o*) The wrongful act or default must have been the cause of the casualty; cf. *The Arizona* (1880). 5 P. D. 123, where the possibility that

the look-out had been negligently placed was held not to have contributed to the collision. Provision of improper ballast would be such a wrongful act: *The Golden Sea* (1882), 7 P. D. 194. Mere error of judgment is not a wrongful act or default: *The Famenoth* (1882), 7 P. D. 207.

(*p*) § 480.

(*q*) There is no power in a court investigating a shipping casualty, to

by his wrongful act or default (*r*), provided that, if the court holding a formal investigation (*s*) is a court of summary jurisdiction (*t*), that court shall not cancel or suspend a certificate (*u*) unless one at least of the assessors (*x*) concurs in the finding of the court :

(*b*.) by a court holding an inquiry under this Part of this Act (*y*) into the conduct of a master (*z*), mate, or engineer if they find that he is incompetent, or has been guilty of any gross act of misconduct, drunkenness, or tyranny, or that in a case of collision he has failed to render such assistance or give such information as is required under the Fifth Part of this Act (*a*) :

(*c*.) by any naval (*b*) or other court (*c*) where under the powers given by this Part of this Act the holder of the certificate is superseded or removed by that court (*c*).

(2.) Where any case before any such court as aforesaid involves a question as to the cancelling or suspending of a certificate (*u*), that court shall, at the conclusion of the case or as soon afterwards as possible, state in open court the decision to which they have come with respect to the cancelling or suspending thereof.

(3.) The court (*z*) shall in all cases send a full report on the case with the evidence to the Board of Trade, and shall also, if they determine to cancel or suspend any certificate (*u*), send the certificate cancelled or suspended to the Board of Trade with their report (*d*).

(4.) A certificate (*u*) shall not be cancelled or suspended by a court under this section, unless a copy of the report (*e*),

suspend or cancel a certificate, unless they can make this finding. Thus in *Ex parte Story* (1878), 3 Q. B. D. 166, where a ship stranded and was got off without serious damage or loss of life, it was held that though there was jurisdiction to inquire under § 461, ss 2, 6, and § 465, there was no jurisdiction to suspend the certificate under this section.

(*r*) See note (*o*), p. 362.

(*s*) § 466, ss. 1, 2.

(*t*) Int. Act, 1889, § 13, s. 12.

(*u*) §§ 92, *et seq.*

(*x*) § 466, ss. 3, 4.

(*y*) § 471.

(*z*) Defined, § 742.

(*a*) § 422.

(*b*) § 480.

(*c*) § 472.

(*d*) The officer must deliver his certificate to the court; § 473.

(*e*) This refers to a report made by a court holding a formal investigation under § 466, s. 6, or to the report of the Local Marine Board mentioned in § 471, or to a statement made by a person asking for such investigation under § 166, s. 1, and conducting it under § 466, s. 5.

or a statement of the case on which the investigation or inquiry has been ordered (*f*), has been furnished before the commencement of the investigation or inquiry to the holder of the certificate (*g*).

Inquiry
into con-
duct of
certifica-
ted officer.
1854, ss.
241, 242.
1862, ss.
11, 23.
1883, s.
39.

471.—(1.) If the Board of Trade, either on the report of a local marine board (*h*) or otherwise, have reason to believe that any master (*i*), mate, or certificated engineer (*g*) is from incompetency or misconduct unfit to discharge his duties, or that in a case of collision he has failed to render such assistance or give such information as is required under the Fifth Part of this Act (*k*), the Board may cause an inquiry to be held.

(2.) The Board may either themselves appoint a person to hold the inquiry or direct the local marine board (*l*) at or nearest the place at which it is convenient for the parties or witnesses to attend to hold the same, or where there is no local marine board before which the parties and witnesses can conveniently attend, or the local marine board is unwilling to hold the inquiry, may direct the inquiry to be held before a court of summary jurisdiction (*m*).

(3.) Where the inquiry is held by a local marine board (*l*), or by a person appointed by the Board of Trade, that board or person (*n*)—

(a.) shall hold the inquiry, with the assistance of a local stipendiary magistrate, or, if there is no such magistrate available, of a competent legal assistant appointed by the Board of Trade; and

(b.) shall have all the powers of a Board of Trade inspector under this Act (*o*); and

It does not refer to the reports mentioned in § 467, s. 3, or § 471, s. 3 (*e*.), which are made after hearing the case, not before commencing it.

(*f*) See previous note.

(*g*) §§ 92, *et seq.*

(*h*) There appears no express provision requiring the Marine Boards to make such reports; but the Board of Trade may require them to do so under § 245, s. 1.

(*i*) Defined, § 742.

(*k*) § 422.

(*l*) § 244.

(*m*) Int. Act, 1889, § 13, s. 12.

(*n*) Evidence given on oath before such a tribunal may be the foundation of a prosecution for perjury. *R. v. Tomlinson* (1866), L. R. 1 C. C. R. 49.

(*o*) §§ 728–730. The Board should issue summons for the attendance of any relevant witnesses whom the defendant wishes to call, but as they are summoned at the public cost, the Board may require to know what

- (c.) shall give any master (*p*), mate, or engineer against whom a charge is made an opportunity of making his defence either in person or otherwise, and may summon him to appear ; and
- (d.) may make such order with regard to the costs of the inquiry as they think just ; and
- (e.) shall send a report upon the case to the Board of Trade.
- (4.) Where the inquiry is held by a court of summary jurisdiction (*q*), the inquiry shall be conducted and the results reported in the same manner, and the court shall have the like powers, as in the case of a formal investigation into a shipping casualty under this Part of this Act (*r*), provided that, if the Board of Trade so direct, it shall be the duty of the person who has brought the charge (*s*) against the master, mate, or engineer, to the notice of the Board of Trade to conduct the case (*t*), and that person shall in that case, for the purpose of this Act, be deemed to be the party having the conduct of the case (*t*).

472.—(1.) Any of the following courts, namely :—
 In England and Ireland the High Court (*u*),
 In Scotland the Court of Session,
 Elsewhere in Her Majesty's dominions any colonial court of Admiralty (*p*) or Vice-Admiralty court,
 may remove the master (*p*) of any ship (*p*) within the jurisdiction of that court (*x*), if that removal is shown to the satisfaction of the court by evidence on oath to be necessary (*y*).

Removal
of master
by Ad-
miralty
Court.
1854, s.
240.

(2.) The removal may be made upon the application of any owner (*z*) of the ship or his agent, or of the consignee

evidence they are to give, and may refuse to summon clearly irrelevant witnesses. *R. v. Collingridge* (1864), 34 L. J. Q. B. 9.

(*p*) Defined, § 742.

(*q*) Int. Act, 1889, § 13, s. 12.

(*r*) § 466.

(*s*) § 471, s. 1.

(*t*) Cf. § 466, s. 5.

(*u*) Int. Act, 1889 § 13, s. 3. Adm. Div.: see M. S. Rules, 1894, Appendix II.

(*z*) *Seemle*, that this would not be

extended to foreign ships, though it does apply to British ships whose owners are not within the jurisdiction of the court removing; cf. sub-s. 3.

(*y*) The causes justifying removal are not limited to the offences specified in § 221 of this Act. See *The Royalist* (1863), Br. & L. 46, where a master was removed for fraud in his accounts.

(*z*) Notes to § 53. Owner includes part owner; cf. *The Royalist*, v. s.

of the ship, or of any certificated mate (a), or of one third or more of the crew (b) of the ship.

(3.) The court (c) may appoint a new master (c) instead of the one removed; but, where the owner (d), agent, or consignee of the ship is within the jurisdiction of the court (c), such an appointment shall not be made without the consent of that owner (e), agent, or consignee.

(4.) The court (c) may also make such order and require such security in respect of the costs of the matter as the court thinks fit.

Delivery
of certi-
ficate can-
celled or
suspended.
1854, s.
242.
1862, s.
24.
42 & 43
Vict. c. 72,
s. 3 (4).

473.—(1.) A master (c), mate, or engineer whose certificate is cancelled or suspended by any court (f) or by the Board of Trade (g) shall deliver his certificate—

(a.) if cancelled or suspended by a court (f) to that court on demand;

(b.) if not so demanded, or if it is cancelled or suspended by the Board of Trade (g), to that Board, or as that Board direct.

(2.) If a master (c), mate, or engineer fail (h) to comply with this section, he shall, for each offence, be liable to a fine not exceeding fifty pounds (i).

Power of
Board of
Trade to
restore
certificate.
1854, s.
242.
1862, s.
23 (4).
45 & 46
Vict. c.
76, s. 3.

474. The Board of Trade may, if they think that the justice of the case requires it, re-issue and return the certificate of a master (c), mate, or engineer which has been cancelled or suspended (k), whether in the United Kingdom or in a British Possession (l), or shorten the time for which it is suspended, or grant in place thereof a certificate of the same or any lower grade (m).

Rehearing of Investigations and Inquiries.

Rehear-
ing of

475.—(1.) The Board of Trade may, in any case where

(a) § 92.

(b) Note to § 113.

(c) Defined, § 742.

(d) Note to § 58.

(e) *Semble*, in case of part owners, this would mean the majority of part owners within the jurisdiction.

(f) §§ 470, 483, s. (b.).

(g) § 469.

(h) Includes refusal; § 742.

(i) Procedure, §§ 680-684; fine how applicable, §§ 699, 716.

(k) Cf. § 473.

(l) Int. Act, 1889, § 18, s. 2.

(m) §§ 92, *et seq.*

under this Part of this Act a formal investigation (*n*) as inquiries aforesaid into a shipping casualty (*o*), or an inquiry into the and investigations, conduct of a master, mate, or engineer (*p*) has been held, 42 & 43 order the case to be re-heard either generally or as to any part thereof, and shall do so (*q*), Vict. c. 72, s. 3.

(*a*.) if new and important evidence which could not be produced at the investigation or inquiry has been discovered; or

(*b*.) if for any other reason there has in their opinion been ground for suspecting that a miscarriage of justice has occurred.

(2.) The Board of Trade may order the case to be re-heard, either by the court (*r*) or authority by whom the case was heard in the first instance, or by the wreck commissioner (*s*), or in England or Ireland by the High Court (*t*), or in Scotland by the Senior Lord Ordinary, or any other judge in the Court of Session whom the Lord President of that court may appoint for the purpose, and the case shall be so re-heard accordingly.

(3.) Where on any such investigation or inquiry (*u*), a decision has been given with respect to the cancelling or suspension of the certificate of a master (*r*), mate, or engineer, and an application for a re-hearing under this section has not been made or has been refused (*q*), an appeal (*x*) shall lie from the decision (*y*) to the following courts; namely,

(*a*.) If the decision is given in England or by a naval court (*z*), to the High Court (*t*):

(*b*.) If the decision is given in Scotland, to either division of the Court of Session:

(*n*) § 466.

(*o*) § 464.

(*p*) § 471.

(*q*) The remedy for refusal to grant a rehearing in cases coming within conditions (*a*.) and (*b*.) is *mandamus*, not appeal. *The Ida* (1886), 11 P. D. 37.

(*r*) Defined, § 742.

(*s*) § 477.

(*t*) Int. Act, 1889, § 13, s. 3. Adm. Div.: see M. S. Rules, 1894, Ap-

pendix II.

(*u*) Sub-s. 1.

(*z*) This appeal is only given to the person whose certificate is dealt with, not to the owner though condemned to pay a fine *nomine expensarum*. *The Golden Sea* (1882), 7 P. D. 194.

(*y*) i.e. from the decision to cancel, not from the refusal to rehear; see note (*q*).

(*z*) § 480, *et seq.*

(c.) If the decision is given in Ireland, to the High Court in Ireland (z).

(4.) Any re-hearing or appeal under this section shall be subject to and conducted in accordance with such conditions and regulations as may be prescribed by rules made in relation thereto under the powers contained in this Part of this Act (a).

Supplemental Provisions as to Investigations and Inquiries.

Investigations before stipendiary magistrate. 1854, s. 435. See 39 & 40 Vict. c. 80, s. 39.

476.—(1.) Where a stipendiary magistrate is in any place a member of the local marine board (b), a formal investigation (c) at that place into a shipping casualty (d) shall, whenever he happens to be present, be held before that stipendiary magistrate.

(2.) There shall be paid out of the Mercantile Marine Fund (e) to the stipendiary magistrate, if he is not remunerated out of money provided by Parliament under this Act, such remuneration by way of an annual increase of salary, or otherwise, as a Secretary of State (f), with the consent of the Board of Trade, may direct.

Power to appoint wreck commissioners. 39 & 40 Vict. c. 80, s. 29.

477. The Lord Chancellor may appoint some fit person or persons to be a wreck commissioner or wreck commissioners for the United Kingdom, so that there shall not be more than three of those commissioners at any one time, and may remove any such wreck commissioner; and in case it becomes necessary to appoint a wreck commissioner in Ireland the Lord Chancellor of Ireland shall have the power to appoint and remove that wreck commissioner.

Authority for colonial court to make inquiries into ship-

478.—(1.) The legislature (g) of any British possession (h) may authorize any court or tribunal to make inquiries as to shipwrecks, or other casualties affecting ships, or as to charges of incompetency, or misconduct on the part of

(z) Costs are usually given to the successful party. *The Famenoth* (1882), 7 P. D. at pp. 216, 217; *The Arizona* (1880), 5 P. D. at p. 180. No costs were given where the appeal succeeded in modifying the suspension. *The Kestrel* (1881), 6 P. D. at p. 192.

(a) Rules made under § 479, see

Appendix VIII.

(b) § 244.

(c) § 466.

(d) § 464.

(e) § 677, s. (c.).

(f) Int. Act, 1889, § 12, s. 3.

(g) Ibid. § 18, s. 7.

(h) Ibid. s. 2.

masters (*i*), mates, or engineers of ships, in the following cases, namely:—

- (a.) where a shipwreck or casualty occurs to a British ship (*k*) on or near the coasts of the British possession (*l*) or to a British ship (*k*) in the course of a voyage to a port (*i*) within the British possession (*l*); ping casual-
ties and
conduct of
officers.
1854, s.
242 (5).
45 & 46
Vict. c.
76, ss. 3-6.
- (b.) where a shipwreck or casualty occurs in any part of the world to a British ship (*k*) registered (*m*) in the British possession (*l*);
- (c.) where some of the crew (*n*) of a British ship (*k*) which has been wrecked or to which a casualty has occurred, and who are competent witnesses to the facts, are found in the British possession (*l*);
- (d.) where the incompetency or misconduct has occurred on board a British ship (*k*) on or near the coasts of the British possession (*l*), or on board a British ship (*k*) in the course of a voyage to a port (*i*) within the British possession (*l*);
- (e.) where the incompetency or misconduct has occurred on board a British ship (*k*) registered (*m*) in the British possession (*l*);
- (f.) when the master (*i*), mate, or engineer of a British ship (*k*) who is charged with incompetency or misconduct on board that British ship is found in the British possession (*l*).

(2.) A court or tribunal so authorized shall have the same jurisdiction over the matter in question as if it had occurred within their ordinary jurisdiction, but subject to all provisions, restrictions, and conditions which would have been applicable if it had so occurred.

(8.) An inquiry shall not be held under this section into any matter which has once been the subject of an investigation or inquiry and has been reported on by a competent court or tribunal in any part of Her Majesty's dominions (*o*), or in respect of which the certificate (*i*) of a master, mate,

(i) Defined, § 742.

(k) Note to § 1.

(l) Int. Act, 1889, § 18, s. 2.

(m) § 4.

(n) Note to § 114.

(o) Cf. §§ 466, 470, 471.

or engineer has been cancelled or suspended by a naval court(*p*).

(4.) Where an investigation or inquiry has been commenced in the United Kingdom with reference to any matter(*q*), an inquiry with reference to the same matter shall not be held, under this section, in a British possession(*r*).

(5.) The court or tribunal holding an inquiry under this section shall have the same powers of cancelling and suspending certificates, and shall exercise those powers in the same manner as a court holding a similar investigation or inquiry in the United Kingdom(*s*).

(6.) The Board of Trade may order the re-hearing of any inquiry under this section in like manner as they may order the re-hearing of a similar investigation or inquiry in the United Kingdom(*t*), but if an application for re-hearing either is not made or is refused(*u*), an appeal shall lie from any order or finding of the court or tribunal holding the inquiry to the High Court(*x*) in England: provided that an appeal shall not lie—

(*a*.) from any order or finding on an inquiry into a casualty affecting a ship(*y*) registered(*z*) in a British possession(*r*); or

(*b*.) from a decision affecting the certificate of a master(*y*), mate, or engineer, if that certificate has not been granted either in the United Kingdom or in a British possession(*r*), under the authority of this Act(*a*).

(7.) The appeal shall be conducted in accordance with such conditions and regulations as may from time to time be prescribed by rules made in relation thereto under the powers contained in this Part of this Act(*v*).

(*p*) § 480.

(*q*) §§ 466, 470, 471.

(*r*) Int. Act, 1889, § 18, s. 2.

(*s*) §§ 470, 471.

(*t*) § 475.

(*u*) The remedy for refusal is mandamus, not appeal. *The Ida* (1886), 11 P. D. 37. The appeal is only given to the person whose certificate is dealt with, not to the owner, though ordered to pay costs.

The Golden Sea (1882), 7 P. D. 194.

(*v*) See Rules in Appendix VIII.

(*x*) Int. Act, 1889, § 13, s. 3. Admiralty Division; see M.S. Rules, 1894, in Appendix.

(*y*) Defined, § 742.

(*z*) § 4.

(*a*) §§ 92, *et seq.*; § 102 Colonial certificates, not coming under § 102, seem to be the certificates excluded from appeal.

479.—(1.) The Lord Chancellor may (with the consent of the Treasury (b) so far as relates to fees) make general rules for carrying into effect the enactments relating to formal investigations (c), and to the re-hearing of, or an appeal from, any investigation or inquiry held under this Part of this Act (d), and in particular with respect to the appointment and summoning of assessors, the procedure, the parties, the persons allowed to appear, the notice to those parties or persons or to persons affected, the amount and application of fees, and the place in which formal investigations are to be held.

Rules as to investigations and inquiries. 39 & 40 Vict. c. 80, s. 30. 42 & 43 Vict. c. 72, ss. 2 (3), 4. 45 & 46 Vict. c. 76, s. 6.

(2.) Any rule made under this section while in force shall have effect as if it were enacted in this Act.

(3.) Any rule made under this section with regard to the re-hearing of, or appeals from, any investigation or inquiries, as to the appointment of assessors, and as to the place in which formal investigations are to be held, shall be laid before both Houses of Parliament as soon as may be after it is made.

Naval Courts on the High Seas and Abroad (e).

480. A court (in this Act called a naval court) may be summoned by any officer in command of any of Her Majesty's ships on any foreign station, or, in the absence of such an officer, by any consular officer (f), in the following cases; (that is to say,)

Cases in which naval courts may be summoned. 1854, s. 260.

- (i.) Whenever a complaint which appears to that officer to require immediate investigation is made to him by the master (g) of any British ship (h), or by a certificated mate (i), or by any one or more of the seamen (g) belonging to any such ship;
- (ii.) Whenever the interest of the owner (j) of any British ship (h) or of the cargo thereof appears to that officer to require it; and

(b) Int. Act, 1889, § 12, s. 2.

(c) § 466; printed in Appendix.

(d) § 475.

(e) For application of these sections, see § 486.

(f) Int. Act, 1889, § 12, s. 20.

(g) Defined, § 742.

(h) Note to § 1.

(i) § 92.

(j) Note to § 58.

(iii.) Whenever any British ship (*k*) is wrecked, abandoned, or otherwise lost at or near the place where that officer may be, or whenever the crew (*l*) or part of the crew of any British ship which has been wrecked, abandoned, or lost abroad arrive at that place.

Constitution of naval courts. 1854, s. 261.

481.—(1.) A naval court (*m*) shall consist of not more than five and not less than three members, of whom, if possible one shall be an officer in the naval service of Her Majesty not below the rank of lieutenant, one a consular officer (*n*), and one a master (*o*) of a British merchant ship (*k*), and the rest shall be either officers in the naval service of Her Majesty, masters (*o*) of British merchant ships (*k*), or British merchants, and the court may include the officer summoning the same, but shall not include the master (*o*) or consignee of the ship to which the parties complaining or complained against belong.

(2.) The naval or consular officer (*n*) in the court, if there is only one such officer, or, if there is more than one, the naval or consular officer who, according to any regulations for settling their respective ranks for the time being in force, is of the highest rank, shall be the president of the court.

Functions of naval courts. 1854, s. 262.

482.—(1.) A naval court (*m*) shall hear the complaint or other matter brought before them under this Act (*m*), or investigate the cause of the wreck, abandonment, or loss (*m*) and shall do so in such manner as to give every person against whom any complaint or charge is made an opportunity of making a defence.

(2.) A naval court (*m*) may, for the purpose of the hearing and investigation, administer an oath, summon parties and witnesses, and compel their attendance and the production of documents.

Powers of naval

483.—(1.) Every naval court (*m*) may, after hearing and investigating the case, exercise the following powers ; (that is to say,)

(*k*) Note to § 1.
(*l*) Note to § 113.
(*m*) § 480.

(*n*) § 742; and Int. Act, 1889,
§ 12, s. 20.
(*o*) Defined, § 742.

- (a.) the court may, if unanimous that the safety of the ship or crew (*p*) or the interest of the owner absolutely requires it, remove the master (*q*), and appoint another person to act in his stead; but no such appointment shall be made without the consent of the consignee of the ship if at the place where the case is heard :
- (b.) the court may, in cases in which they are authorized by this Act (*r*) and subject to the provisions of this Act (*s*), cancel or suspend the certificate (*t*) of any master (*q*), mate, or engineer :
- (c.) the court may discharge a seaman (*q*) from his ship (*u*) :
- (d.) the court may order the wages (*q*) of a seaman (*q*) so discharged or any part of those wages to be forfeited (*x*), and may direct the same either to be retained by way of compensation to the owner (*y*), or to be paid into the Exchequer, in the same manner as fines under this Act (*z*) :
- (e.) the court may decide any questions as to wages (*q*) or fines or forfeitures arising between any of the parties to the proceedings :
- (f.) the court may direct that all or any of the costs incurred by the master (*q*) or owner (*y*) of any ship (*q*) in procuring the imprisonment (*a*) of any seaman (*q*) or apprentice (*b*) in a foreign port (*q*), or in his maintenance whilst so imprisoned, shall be paid out of and deducted (*x*) from the wages (*q*) of that seaman or apprentice, whether then or subsequently earned :
- (g.) the court may exercise the same powers with regard to persons charged before them with the commission of offences at sea or abroad as British consular officers (*c*) can under the Thirteenth Part of this Act (*d*) :
- (h.) the court may punish any master (*q*) of a ship or any of the crew (*p*) of a ship respecting whose conduct a

courts.
1854, ss.
242, 268,
264.
18 & 19
Vict. c.
94, s. 18.
94 & 35
Vict. c.
110, s. 8.

(*p*) Note to § 113.
(*q*) Defined, § 742.
(*r*) § 470, s. 1 (*a.*).
(*s*) § 470.
(*t*) § 92.
(*u*) §§ 186-189.
(*z*) Notes to § 132.

(*y*) Note to § 58.
(*a*) §§ 699, 716.
(*b*) § 161.
(*b*) §§ 105-109.
(*c*) Int. Act, 1889, § 12, s. 20.
(*d*) § 689.

complaint is brought before them for any offence against this Act, which, when committed by the said master (*e*) or member of the crew (*f*), is punishable on summary conviction, and shall for that purpose have the same powers as a court of summary jurisdiction (*g*) would have if the case were tried in the United Kingdom: Provided that—

- (i.) where an offender is sentenced to imprisonment, the senior naval or consular officer (*h*) present at the place where the court is held shall in writing confirm the sentence and approve the place of imprisonment, whether on land or on board ship, as a proper place for the purpose; and,
- (ii.) copies of all sentences passed by any naval court (*f*) summoned to hear any such complaint as aforesaid, shall be sent to the commander-in-chief or senior naval officer of the station:
- (*j*.) the court may, if it appears expedient, order a survey of any ship (*e*) which is the subject of investigation to be made, and such survey shall accordingly be made, in the same way, and the surveyor who makes the same shall have the same powers as if such survey had been directed by a competent court in pursuance of the Fifth Part of this Act (*i*), in the course of proceedings against a seaman or apprentice for the offence of desertion (*i*).
- (*k*.) the court may order the costs of the proceedings before them, or any part of those costs, to be paid by any of the parties thereto, and may order any person making a frivolous or vexatious complaint to pay compensation for any loss or delay caused thereby; and any costs or compensation so ordered to be paid shall be paid by that person accordingly, and may be recovered in the same manner in which the wages of seamen are recoverable (*k*), or may, if the case admits, be deducted from the wages due to that person (*l*).

(*e*) Defined, § 742.

(*f*) Cf. §§ 221, 225.

(*g*) Int. Act, 1889, § 13, s. 12.

(*h*) § 742; and Int. Act, 1889, § 12,

s. 20.

(*i*) § 463.

(*k*) § 164.

(*l*) § 132.

(2.) All orders duly made by a naval court (*m*) under the powers hereby given to it, shall in any subsequent legal proceedings be conclusive as to the rights of the parties.

(3.) All orders made by any naval court (*m*) shall, whenever practicable, be entered in the official log-book (*n*) of the ship to which the parties to the proceedings before the court belong, and signed by the president of the court.

484.—(1.) Every naval court (*m*) shall make a report to the Board of Trade containing the following particulars (that is to say) :—

- (a.) a statement of the proceedings of the court, together with the order made by the court, and a report of the evidence;
- (b.) an account of the wages (*o*) of any seaman (*o*) or apprentice (*p*) who is discharged from his ship by the court (*q*);
- (c.) if summoned to inquire into a case of wreck or abandonment (*r*), a statement of the opinion of the court as to the cause of that wreck or abandonment, with such remarks on the conduct of the master (*o*) and crew (*s*) as the circumstances require.

(2.) Every such report shall be signed by the president of the court, and shall be admissible in evidence in manner provided by this Act (*t*).

485. If any person wilfully and without due cause prevents or obstructs the making of any complaint (*u*) to an officer empowered to summon a naval court (*m*), or the conduct of any hearing or investigation by any naval court (*m*), he shall for each offence be liable to a fine not exceeding fifty pounds, or be liable to imprisonment, with or without hard labour, for any period not exceeding twelve weeks (*x*).

(*m*) § 480.

(*n*) § 240.

(*o*) Defined, § 742.

(*p*) §§ 105–109.

(*q*) § 483, s. 1 (*c.*).

(*r*) § 480, s. (iii.).

(*s*) Note to § 113.

(*t*) § 695.

(*u*) § 480, s. (i.).

(*x*) Procedure, §§ 680–684; fine how applicable, §§ 699, 716.

Report of
proceed-
ings of
naval
courts.
1854, s.
265.

Penalty
for pre-
venting
complaint
or ob-
structing
investiga-
tion.
1854, s.
266.

Applica-
tion of pro-
visions as
to naval
courts.
1854, s.
109.
1883, s. 49.

486.—(1.) The provisions of this Part of this Act with regard to naval courts (*y*) on the high seas and abroad shall apply to all sea-going (*z*) ships (*a*) registered in the United Kingdom (with the exception, in their application elsewhere than in Scotland, of fishing boats (*b*) exclusively employed in fishing on the coasts of the United Kingdom (*c*)) and to all ships (*a*), registered in a British possession (*d*) when those ships are out of the jurisdiction of their respective governments, and where they apply to a ship, shall apply to the owners (*e*), master (*a*), and crew (*f*) of that ship.

(2.) For the purpose of the said provisions an un-registered British ship shall be deemed to have been registered in the United Kingdom (*g*).

Courts of Survey.

Constitu-
tion of
court of
survey.
39 & 40
Vict. c. 80,
ss. 7,
41-43.

487.—(1.) A court of survey for a port (*a*) or district shall consist of a judge (*h*) sitting with two assessors (*i*).

(2.) The judge shall be such person as may be summoned for the case in accordance with the rules made under this Act (*k*) with respect to that court, out of a list approved for the port (*a*) or district by a Secretary of State (*l*), of wreck commissioners appointed under this Act (*m*), stipendiary (*n*) or metropolitan police magistrates, judges of county courts (*o*), and other fit persons; but in any special case in which the Board of Trade think it expedient to appoint a wreck commissioner, the judge shall be such wreck commissioner (*m*).

(3.) The assessors shall be persons of nautical, engineering, or other special skill and experience; subject to the provisions of the Fifth Part of this Act as regards foreign ships (*p*), one of them shall be appointed by the Board of

- (*y*) § 480.
- (*z*) Cf. *Salt Union v. Wood* (1893),
1 Q. B. 370.
- (*a*) Defined, § 742.
- (*b*) Cf. § 370.
- (*c*) Cf. § 263, s. 1.
- (*d*) Int. Act, 1889, § 18, s. 2.
- (*e*) Note to § 58.
- (*f*) Note to § 118.
- (*g*) Cf. § 266, and § 2.

- (*h*) Sub-s. 2.
- (*i*) Sub-s. 3.
- (*k*) § 489; see Appendix.
- (*l*) Int. Act, 1889, § 12, s. 3.
- (*m*) § 477.
- (*n*) Cf. in Ireland, sub-s. 7, and
§ 476.
- (*o*) Cf. as to Scotland, sub-s. 6.
- (*p*) § 462.

Trade, either generally or in each case, and the other shall be summoned, in accordance with the rules made as aforesaid (*q*), by the registrar of the court (*r*), out of a list of persons periodically nominated for the purpose by the local marine board (*s*) of the port (*t*), or, if there is no such board, by a body of local shipowners or merchants approved for the purpose by a Secretary of State (*u*), or, if there is no such list, shall be appointed by the judge (*x*): If (*y*) a Secretary of State (*u*) thinks fit at any time, on the recommendation of the government of any British possession (*s*) or any foreign country, to add any persons to any such list, those persons shall, until otherwise directed by the Secretary of State (*u*), be added to the list, and if there is no such list shall form the list.

(4.) The county court registrar (*r*) or such other fit person as a Secretary of State (*u*) may from time to time appoint shall be the registrar of the court, and shall, on receiving notice of an appeal or a reference from the Board of Trade, immediately summon the court to meet forthwith in manner directed by the rules (*q*).

(5.) The name of the registrar and his office, together with the rules made as aforesaid (*q*), relating to the court of survey (*a*), shall be published in the manner directed by the rules (*q*).

(6.) In the application of this section to Scotland the expression "judge of a county court" means a sheriff, and the expression "county court registrar" means sheriff clerk.

(7.) In the application of this section to Ireland the expression "stipendiary magistrate" includes any of the justices of the peace in Dublin metropolis and any resident magistrate.

(8.) In the application of this section to the Isle of Man the expression "judge of a county court" means the water bailiff, the expression "stipendiary magistrate" means the

(*q*) § 489; see Appendix.

(*r*) Cf. sub-a. 4: in Scotland and Isle of Man, see sub-ss. 6, 8.

(*s*) § 244.

(*t*) Defined, § 742.

(*u*) Int. Act, 1889, § 12, s. 3.

(*x*) Sub-a. 2.

(*y*) Printed thus in the Act.

(*z*) Int. Act, 1889, § 18, s. 2.

(*a*) § 487, s. 1.

high bailiff, the expression "registrar of a county court" means a clerk to a deemster or a clerk to justices of the peace.

Power and
procedure
of court of
survey.
39 & 40
Vict. c. 8,
ss. 8, 12
(5).

488.—(1.) The court of survey (*b*) shall hear every case in open court.

(2.) The judge (*c*) and each assessor (*d*) of the court may survey the ship, and shall have for the purposes of this Act all the powers of a Board of Trade inspector under this Act (*k*).

(3.) The judge (*c*) of the court may appoint any competent person or persons to survey the ship and report thereon to the court.

(4.) The judge (*c*) of the court, any assessor (*d*) of the court, and any person appointed by the judge of the court to survey a ship (*f*), may go on board the ship and inspect the same and every part thereof, and the machinery, equipments, and cargo, and may require the unloading or removal of any cargo, ballast, or tackle, and any person who wilfully impedes such judge (*c*), assessor (*d*), or person (*f*) in the execution of the survey, or fails (*g*) to comply with any requisition made by him, shall for each offence be liable to a fine not exceeding ten pounds (*h*).

(5.) The judge (*c*) of the court shall have the same power as the Board of Trade have to order the ship to be released or finally detained (*i*), but, unless one of the assessors (*d*) concurs in an order for the detention of the ship, the ship shall be released.

(6.) The owner (*k*) and master (*l*) of the ship and any person appointed by the owner or master, and also any person appointed by the Board of Trade, may attend at any inspection or survey made in pursuance of this section (*m*).

(7.) The judge (*c*) of the court shall send to the Board of

(*b*) § 487, s. 1.

(*c*) § 487, s. 2.

(*d*) § 487, s. 3.

(*e*) §§ 728-730.

(*f*) Sub-s. 3.

(*g*) Includes refusal; § 742.

(*h*) Procedure, §§ 680-684; fine how applicable, §§ 699, 716.

(*i*) § 459.

(*k*) Note to § 58.

(*l*) Defined, § 742.

(*m*) Sub-s. 4.

Trade such report as may be directed by the rules (*n*), and each assessor (*o*) shall either sign the report or report to the Board of Trade the reasons for his dissent.

489. The Lord Chancellor may (with the consent of the Treasury (*p*) so far as relates to fees) make general rules to carry into effect the provisions of this Act with respect to a court of survey (*q*), and in particular with respect to the summoning of, and procedure before, the court, the requiring on an appeal security for costs and damages, the amount and application of fees, and the publication of the rules, and those rules shall have effect as if enacted in this Act (*q*).

Rules for
procedure
of court of
survey, &c.
39 & 40
Vict. c. 80,
s. 9.

Scientific Referees.

490.—(1.) If the Board of Trade are of opinion that an appeal to a court of survey involves a question of construction or design or of scientific difficulty or important principle, they may refer the matter to such one or more out of a list of scientific referees from time to time approved by a Secretary of State (*r*), as may appear to possess the special qualifications necessary for the particular case, and may be selected by agreement between the Board of Trade and the appellant, or in default of any such agreement by a Secretary of State (*r*), and thereupon the appeal shall be determined by the referee or referees, instead of by the court of survey (*s*).

Reference
in difficult
cases to
scientific
persons.
39 & 40
Vict. c. 80,
s. 15.

(2.) The Board of Trade, if the appellant in any appeal so requires and gives security to the satisfaction of the Board to pay the costs of and incidental to the reference, shall refer that appeal to a referee or referees so selected as aforesaid.

(3.) The referee or referees shall have the same powers as a judge of the court of survey (*s*).

(*n*) § 489; see Appendix.

(*o*) § 487, s. 3.

(*p*) Int. Act, 1889, § 12, s. 2.

(*q*) §§ 487, 488, printed in

Appendix.

(*r*) Int. Act, 1889, § 12, s. 3.

(*s*) §§ 487, 488.

Payments to Officers of Courts.

Payments
to officers
of courts.
39 & 40
Vict. c. 80,
s. 39.

491. There may be paid out of money provided by Parliament to any wreck commissioner (*t*), judge of a court of survey (*u*), assessor in any court of survey or investigation under this Part of this Act (*u*), registrar of a court of survey (*u*), scientific referee (*x*), or any other officer or person appointed for the purpose of any court of survey or investigation under this Part of this Act, such salary or remuneration (if any) as the Treasury (*y*) may direct.

(*t*) § 477.

(*u*) §§ 487, 488.

(*x*) § 490.

(*y*) Int. Act, 1889, § 12, s. 2.

PART VII.

1862 = 25 & 26 Vict. c. 63.

Int. Act, 1889 = Interpretation Act, 1889 (52 & 53 Vict. c. 63); see Appendix.

Marginal references are to the sections reproduced.

ARRANGEMENT OF SECTIONS.

DELIVERY OF GOODS.

Delivery of Goods and Lien for Freight.

- 492. Definitions under Part VII. (p. 382).
 - 493. Power of shipowner to enter and land goods on default by owner of goods (p. 383).
 - 494. Lien for freight on landing goods (p. 385).
 - 495. Discharge of lien (p. 385).
 - 496. Provisions as to deposits by owners of goods (p. 386).
 - 497. Sale of goods by warehousemen (p. 387).
 - 498. Application of proceeds of sale (p. 387).
 - 499. Warehouseman's rent and expenses (p. 388).
 - 500. Warehouseman's protection (p. 388).
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1862 = 25 & 26 Vict. c. 63.

Int. Act, 1889 = Interpretation Act, 1889 (52 & 53 Vict. c. 63); see Appendix.

Marginal references are to the sections reproduced.

PART VII.

DELIVERY OF GOODS.

Delivery of Goods and Lien for Freight.

*Delivery of
Goods and
Lien for
Freight.*

Defini-
tions
under
Part VII.
1862, s. 66.

492. In this Part of this Act unless the context otherwise requires—

The expression “goods” includes every description of wares and merchandise :

The expression “wharf” includes all wharves, quays, docks, and premises in or upon which any goods, when landed from ships, may be lawfully placed :

The expression “warehouse” includes all warehouses, buildings, and premises in which goods, when landed from ships, may be lawfully placed (a) :

The expression “report” means the report required by the customs laws to be made by the master of an importing ship (b) :

The expression “entry” means the entry required by the customs laws to be made for the landing or discharge of goods from an importing ship (c) :

The expression “shipowner” includes the master (d) of the ship and every other person authorized to act as agent for the owner or entitled to receive the freight, demurrage, or other charges payable in respect of the ship :

(a) 39 & 40 Vict. c. 36, § 12.

(b) Ibid. § 50.

(c) 39 & 40 Vict. c. 36, §§ 55, 57,

58, 64, *et seq.*

(d) Defined, § 742.

The expression "owner" used in relation to goods means every person who is for the time entitled, either as owner or agent for the owner, to the possession of the goods, subject in the case of a lien (if any), to that lien (e):

The expression "wharfinger" means the occupier of a wharf as herein-before defined:

The expression "warehouseman" means the occupier of a warehouse as herein-before defined.

493 (f).—(1.) Where the owner (g) of any goods (k) imported in any ship (h) from foreign parts into the United Kingdom fails (i) to make entry (g) thereof, or, having made entry (g) thereof, to land the same or take delivery thereof, and to proceed therewith with all convenient speed (k), by the times severally herein-after mentioned, the shipowner (g) may make entry of and land or unship the goods (g) at the following times (l):—

Power of shipowner to enter and land goods on default by owner of goods.
1862, s. 67.

(a.) If a time for the delivery of the goods (g) is expressed in the charter party, bill of lading, or agreement, then at any time after the time so expressed:

(b.) If no time for the delivery of the goods (g) is expressed in the charter party, bill of lading, or agreement, then at any time after the expiration of seventy-two hours, exclusive of a Sunday or holiday, from the time of the report (g) of the ship (m).

(e) Cf. *Furness v. White* (1895), A. C. 40; *Glyn Mills v. E. & W. Dock Co.* (1882), 7 App. C. 591.

(f) This statutory power only applies to the case of a consignee failing to be ready to take delivery when the shipowner is ready to land his goods. *Per Brett, M.R.*; *Marszetti v. Smith* (1884), 49 L. T. at p. 583. It may be excluded or varied by express agreement in the bill of lading, or by the custom of the whole port (*Marszetti v. Smith, s. v.*); or of a particular trade. *Asto v. Stumore* (1884), 1 C. & E. 319; *Alexiadi v. Robinson* (1861), 2 F. & F. 679, at p. 683.

(g) Defined, § 492.

(h) Defined, § 742.

(i) Includes refusal; § 742.

(k) Where the cargo is apportion-

able, if the consignee applies in time to take delivery of part, the shipowner is not entitled to land such part unless the consignee's failure to take the first part has prejudiced the shipowner in the delivery of the remainder. *Wilson v. London Steam Co.* (1865), L. R. 1 C. P. 61.

(l) This is so, whether the failure was caused by the fault of the goods-owner or not, provided it was not caused by the fault of the shipowner. *The Energis* (1875), L. R. 6 P. C. at p. 316. If the goods-owner applies before the shipowner has begun to discharge, he is entitled to have delivery. See sub-s. 3.

(m) The so-called "London Clause" allows discharge immediately on arrival. See *Scrutton on Charters*, article 127, note 1.

(2.) Where a shipowner (*n*) lands goods (*n*) in pursuance of this section, he shall place them, or cause them to be placed—

(a.) If any wharf (*n*) or warehouse (*n*) is named in the charter party, bill of lading, or agreement, as the wharf or warehouse where the goods (*n*) are to be placed, and if they can be conveniently there received, on that wharf (*n*) or in that warehouse (*n*); and

(b.) In any other case on some wharf (*n*) or in some warehouse (*n*) on or in which goods (*n*) of a like nature are usually placed; the wharf or warehouse being, if the goods are dutiable, a wharf or warehouse duly approved by the Commissioners of Customs for the landing of dutiable goods (*o*).

(3.) If at any time before the goods (*n*) are landed or unshipped the owner (*n*) of the goods is ready and offers to land or take delivery of the same, he shall be allowed to do so, and his entry (*n*) shall in that case be preferred to any entry which may have been made by the shipowner (*n*).

(4.) If any goods (*n*) are, for the purpose of convenience in assorting the same (*p*), landed at the wharf (*n*) where the ship is discharged, and the owner (*n*) of the goods at the time of that landing has made entry (*n*) and is ready and offers to take delivery thereof, and to convey the same to some other wharf (*n*) or warehouse (*n*), the goods shall be assorted at landing (*p*), and shall, if demanded, be delivered to the owner (*n*) thereof within twenty-four hours after assortment; and the expense of and consequent on that landing and assortment shall be borne by the shipowner (*n*).

(5.) If at any time before the goods (*n*) are landed or unshipped the owner (*n*) thereof has made entry (*n*) for the landing and warehousing thereof at any particular wharf (*n*) or warehouse (*n*) other than that at which the ship is discharging, and has offered and been ready to take

(*n*) Defined, § 492.

(*o*) Cf. 39 & 40 Vict. c. 36, s. 12.

(*p*) It is the custom in London for large steamers to land all their cargo at once on the quay, and there sort

it, delivering it either to the Dock Company or the consignee's craft. See Scrutton on Charters, Appendix II. A.

delivery thereof(*q*), and the shipowner(*r*) has failed to make that delivery, and has also failed at the time of that offer to give the owner(*r*) of the goods(*r*) correct information of the time at which the goods(*r*) can be delivered(*s*), then the shipowner(*r*) shall, before landing or unshipping the goods, in pursuance of this section, give to the owner(*r*) of the goods or of such wharf(*r*) or warehouse(*r*) as last aforesaid twenty-four hours' notice(*t*) in writing of his readiness to deliver the goods, and shall, if he lands or unships the same without that notice, do so at his own risk and expense(*u*).

494. If at the time when any goods(*r*) are landed from any ship(*x*), and placed in the custody of any person as a wharfinger(*r*) or warehouseman(*r*), the shipowner(*r*) gives to the wharfinger or warehouseman notice in writing that the goods are to remain subject to a lien for freight or other charges payable to the shipowner to an amount mentioned in the notice(*y*), the goods(*r*) so landed shall, in the hands of the wharfinger(*r*) or warehouseman(*r*), continue subject to the same lien, if any, for such charges(*z*) as they were subject to before the landing thereof; and the wharfinger or warehouseman receiving those goods shall retain them until the lien is discharged as herein-after mentioned(*a*), and shall, if he fails(*b*) so to do, make good to the shipowner(*r*) any loss thereby occasioned to him.

Lien for freight on landing goods.
1862, s. 68.

495. The said lien for freight and other charges(*z*) shall be discharged—

Discharge of lien.
1862, ss.
69, 70.

(*q*) The goods-owner or his agent must be ready at the time of the offer. *Beresford v. Montgomerie* (1864), 17 C. B. N. S., 379.

(*r*) Defined, § 492.

(*s*) It is not necessary that the goods-owner should formally demand correct information. *Beresford v. Montgomerie*, v. s.; but *semble*, that if the shipowner is then *bona fide* ignorant of the position of the goods in the ship, this does not constitute a "failure to inform." *Oliver v. Colven* (1879), 27 W. R. 822.

(*t*) The lighterman is the agent of the goods-owner to recover such notice. *The Clan Macdonald* (1883),

8 P. D. at p. 185.

(*u*) See sub-ss. 4 and 5 discussed in *The Clan Macdonald*, v. s.; *Marzetti v. Smith* (1884), 49 L. T. at p. 583.

(*z*) Defined, § 742.

(*y*) A notice for a grossly excessive amount may be treated as no notice, and detention under it as wrongful. *The Energie* (1875), L. R. 6 P. C. at p. 316.

(*z*) *Semble*, these will include demurrage, dead freight, or any other matters for which the shipowner has by agreement or otherwise a lien.

(*a*) § 495.

(*b*) Includes refusal; § 742.

(1.) Upon the production to the wharfinger (*b*) or warehouseman (*b*) of a receipt for the amount claimed as due, and delivery to the wharfinger or warehouseman of a copy thereof or of a release of freight (*c*) from the shipowner (*b*), and

(2.) Upon the deposit by the owner (*b*) of the goods with the wharfinger (*b*) or warehouseman (*b*) of a sum of money equal in amount to the sum claimed as aforesaid by the shipowner (*b*);

but in the latter case the lien shall be discharged without prejudice to any other remedy which the shipowner (*b*) may have for the recovery of the freight (*d*).

Provisions
as to de-
posits by
owners of
goods.
1862, ss.
71, 72.

496.—(1.) When a deposit as aforesaid (*e*) is made with the wharfinger (*b*) or warehouseman (*b*) the person making the same may, within fifteen days after making it, give to the wharfinger or warehouseman notice in writing to retain it, stating in the notice the sums, if any, which he admits to be payable to the shipowner (*b*), or, as the case may be, that he does not admit any sum to be so payable, but if no such notice is given, the wharfinger or warehouseman may, at the expiration of the fifteen days, pay the sum deposited over to the shipowner (*b*).

(2.) If a notice is given as aforesaid (*f*) the wharfinger (*b*) or warehouseman (*b*) shall immediately apprise the shipowner (*b*) of it, and shall pay or tender to him out of the sum deposited the sum, if any, admitted by the notice (*f*) to be payable, and shall retain the balance, or, if no sum is admitted to be payable, the whole of the sum deposited, for thirty days from the date of the notice.

(3.) At the expiration of those thirty days unless legal proceedings have in the meantime been instituted by the shipowner (*b*) against the owner (*b*) of the goods to recover

(*b*) Defined, § 492.

(*c*) i.e. a removal of the stop for freight, contained in the notice in § 494.

(*d*) If the shipowner would otherwise have had no claim for freight against any person, the fact that such a person has deposited money with the warehouseman, and taken out the

goods, does not give the shipowner any right to claim freight from him, apart from his claim against the sum deposited. Cf. *Furness v. White* (1805), A. C. 40; *Glyn Mills v. E. & W. Dock Co.* (1882), 7 App. C. 591.

(*e*) § 495, s. 2.

(*f*) Sub-s. 1.

the said balance or sum, or otherwise for the settlement of any disputes which may have arisen between them concerning the freight or other charges (*g*) as aforesaid, and notice in writing of those proceedings has been served on the wharfinger (*h*) or warehouseman (*h*), the wharfinger or warehouseman shall pay the balance or sum to the owner (*h*) of the goods.

(4.) A wharfinger (*h*) or warehouseman (*h*) shall by any payment under this section be discharged from all liability in respect thereof.

497.—(1.) If the lien is not discharged, and no deposit is made as aforesaid (*i*), the wharfinger (*h*) or warehouseman (*h*) may, and, if required by the shipowner (*h*), shall, at the expiration of ninety days from the time when the goods (*h*) were placed in his custody, or, if the goods are of a perishable nature, at such earlier period as in his discretion he thinks fit, sell by public auction, either for home use or for exportation, the goods or so much thereof as may be necessary to satisfy the charges herein-after mentioned (*k*).

Sale of
goods by
ware-
housemen.
1862, ss.
78, 74.

(2.) Before making the sale the wharfinger (*h*) or warehouseman (*h*) shall give notice thereof by advertisement in two local newspapers circulating in the neighbourhood, or in one daily newspaper published in London, and in one local newspaper, and also, if the address of the owner (*h*) of the goods has been stated on the manifest of the cargo, or on any of the documents which have come into the possession of the wharfinger or warehouseman, or is otherwise known to him, send notice of the sale to the owner (*h*) of the goods by post.

(3.) The title of a bona fide purchaser of the goods (*h*) shall not be invalidated by reason of the omission to send the notice required by this section (*l*), nor shall any purchaser be bound to inquire whether the notice has been sent.

498. The proceeds of sale (*m*) shall be applied by the Application of

(*g*) See note to § 494.

(*h*) Defined, § 492.

(*i*) § 495, s. 2.

(*k*) § 498.

(*l*) Sub-s. 2.

(*m*) § 497, s. 1.

proceeds of sale. 1862, s. 75. wharfinger (*n*) or warehouseman (*n*) as follows, and in the following order :

(i.) First, if the goods (*n*) are sold for home use, in payment of any customs or excise duties owing in respect thereof; then

(ii.) In payment of the expenses of the sale (*o*); then

(iii.) In payment of the charges of the wharfinger (*n*) or warehouseman (*n*) and the shipowner (*n*) according to such priority as may be determined by the terms of the agreement (if any) in that behalf between them; or, if there is no such agreement:—

(a.) in payment of the rent, rates, and other charges due to the wharfinger (*n*) or warehouseman (*n*) in respect of the said goods; and then

(b.) in payment of the amount claimed by the shipowner (*n*) as due for freight or other charges (*p*) in respect of the said goods;

and the surplus, if any, shall be paid to the owner (*n*) of the goods.

Ware-
house-
man's rent
and ex-
penses.
1862, s. 76.

499. Whenever any goods (*n*) are placed in the custody of a wharfinger (*n*) or warehouseman (*n*), under the authority of this Part of this Act (*q*), the wharfinger or warehouseman shall be entitled to rent in respect of the same, and shall also have power, at the expense of the owner (*n*) of the goods, to do all such reasonable acts as in the judgment of the wharfinger or warehouseman are necessary for the proper custody and preservation of the goods (*n*), and shall have a lien on the goods for the rent and expenses.

Ware-
house-
man's pro-
tection.
1862, s. 77.

500. Nothing in this Part of this Act shall compel any wharfinger (*n*) or warehouseman (*n*) to take charge of any goods (*n*) which he would not have been liable to take charge of if this Act had not been passed; nor shall he be bound to see to the validity of any lien claimed by any shipowner under this Part of this Act (*p*).

Saving for
powers

501. Nothing in this Part of this Act shall take away or

(*n*) Defined, § 492.
(*o*) § 497, s. 1.

(*p*) See note (*x*) to § 494.
(*q*) § 498, s. 2.

abridge any powers given by any local Act to any harbour under authority (*r*), body corporate, or persons, whereby they are ^{local Acts, 1862, s. 78.} enabled to expedite the discharge of ships (*r*) or the landing or delivery of goods (*s*); nor shall anything in this Part of this Act take away or diminish any rights or remedies given to any shipowner (*s*) or wharfinger (*s*) or warehouseman (*s*) by any local Act.

(*r*) Defined, § 742.

(*s*) Defined, § 492.

PART VIII.

1854 = 17 & 18 Vict. c. 104.

1862 = 25 & 26 Vict. c. 63.

Int. Act, 1889 = Interpretation Act, 1889 (52 & 53 Vict. c. 63); see Appendix.

Marginal references are to the sections reproduced.

ARRANGEMENT OF SECTIONS.

LIABILITY OF SHIPOWNERS.

Section.

- 502. Limitation of shipowner's liability in certain cases of loss of, or damage to, goods (p. 392).
 - 503. Limitation of owner's liability in certain cases of loss of life, injury, or damage (p. 393).
 - 504. Power of courts to consolidate claims against owners, &c. (p. 396).
 - 505. Part owners to account in respect of damages (p. 396).
 - 506. Insurances of certain risks not invalid (p. 396).
 - 507. Proof of passengers on board ship (p. 397).
 - 508. Liability in certain cases not affected (p. 397).
 - 509. Extent of Part VIII. (p. 397).
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1854 = 17 & 18 Vict. c. 104.

1862 = 25 & 26 Vict. c. 63.

Int. Act, 1889 = Interpretation Act, 1889 (52 & 53 Vict. c. 63); see Appendix.

Marginal references are to the sections reproduced.

PART VIII.

LIABILITY OF SHIPOWNERS.

Liability of Ship- owners.

Limita-
tion of
ship-
owner's
liability in
certain
cases of
loss of, or
damage to,
goods.
1854, s.
503.

502. The owner (a) of a British (b) sea-going (c) ship (d), or any share therein, shall not be liable to make good to any extent whatever any loss or damage happening without his actual fault or privity in the following cases, namely:—

- (i.) where any goods, merchandise, or other things whatsoever taken in or put on board his ship are lost or damaged by reason of fire on board the ship (e); or
- (ii.) where any gold, silver, diamonds, watches (f), jewels, or precious stones taken in or put on board his ship, the true nature and value (g) of which have not at the time of shipment been declared by the owner or

(a) Note to § 58. As to liability of part owners, see § 505.

(b) Note to § 1.

(c) Which actually goes to sea. *Salt Union v. Wood* (1893), 1 Q. B. 370.

(d) Defined, § 742.

(e) This does not free the ship-owner from liability for general average contribution for damage caused by water used to extinguish fire. *Schmidt v. Royal Mail S.S. Co.*

(1876), 45 L. J. Q. B. 646.

(f) A London special jury found that "watch movements" were not "watches" within this section.

(g) Cf. *Williams v. African S.S. Co.* (1850), 1 H. & N. 300, where a description, "248 ounces of gold dust," was held bad, as not stating value; and *Gilbs v. Potter* (1842), 10 M. & W. 70, where the description, "1338 hard dollars," was held good.

shipper thereof to the owner (*h*) or master (*i*) of the ship in the bills of lading or otherwise in writing, are lost or damaged by reason of any robbery, embezzlement, making away with, or secreting thereof.

503.—(1.) The owners (*h*) of a ship (*k*), British or foreign, shall not, where all or any of the following occurrences take place without their actual fault or privity (*l*); (that is to say (*m*),)

Limita-
tion of
owner's
liability in
certain
cases of
loss of life,
injury, or
damage.
1854, a.
506.
1862, s. 54.

(a.) Where any loss of life or personal injury is caused to any person being carried in the ship;

(b.) Where any damage or loss is caused to any goods, merchandise, or other things whatsoever on board the ship (*n*);

(c.) Where any loss of life or personal injury is caused to any person carried in any other vessel (*o*) by reason of the improper navigation of the ship;

(*h*) Note to § 58. As to liability of part owners, see § 505.

(*i*) Defined, § 742.

(*k*) This only applies to "ships" as defined by § 742, and therefore excludes dock derricks, or vessels which have ceased to be used as ships. *European Co. v. P. & O. Co.* (1886), 2 Asp. M. C. O. S. 357. If the ship is owned by British subjects, it is not recognized as a British ship unless registered, and therefore cannot claim the benefit of limitation of liability (§§ 2, 72). Cf. *The Andalusian* (1878), 2 P. D. 182, where a vessel, owned by British subjects and not yet registered, during her launch came into collision, and though registered at the time of commencing her proceedings for limitation, was refused the benefit of the section, on the ground that, at the time of the collision, she was not registered as a British ship. Had she been owned by a foreigner, she would have obtained limitation. *Semble*, that where British subjects have contracted to purchase a foreign ship which is not yet transferred, she need not be registered to get protection. *The Brinio* (1891), 90 L. Times Paper, 249; and *Marsden on Collisions*, 3rd edit. 173.

(*l*) If the owner is the actual wrong-doer, he cannot claim limitation. If a part-owner, as the master, by his fault or privity causes the collision, he will be liable for full damages; but his co-owners may limit their liability, whether they are registered or not at the time of the collision. *The Spirit of the Ocean* (1865), Br. & L. 336. Merely being on board at the time of the collision does not constitute fault or privity. *The Obey* (1866), L. R. 1 A. & E. 102; *The Satanita*, per Bruce, J. In this case also it was held by the C. A. that a yacht-owner, by taking part in a race under rules requiring him to pay damages caused by collision, had contracted himself out of his statutory protection. 11 R. 110; 11 Times L. R. 322.

(*m*) This section applies to all actions in British courts, whatever the nationality of the ships in collision, or the place of collision. *The Amalia* (1863), Br. & L. 151.

(*n*) But not to goods discharged from the ship on the collision, and damaged while being carried on in another vessel. *The Bernina* (1886), 12 P. D. 36.

(*o*) "Vessel" is a wider term than "ship;" see § 742.

(d.) Where any loss or damage is caused to any other vessel (o), or to any goods, merchandise, or other things whatsoever on board any other vessel, by reason of the improper navigation of the ship (p);
be liable to damages beyond the following amounts (q);
(that is to say,)

(i.) in respect of loss of life or personal injury, either alone or together with loss of or damage to vessels, goods, merchandise, or other things, an aggregate amount not exceeding fifteen pounds for each ton of their ship's tonnage (r); and

(ii.) in respect of loss of, or damage to, vessels, goods, merchandise, or other things, whether there be in addition loss of life or personal injury or not, an aggregate amount not exceeding eight pounds for each ton of their ship's tonnage (r).

(2.) For the purposes of this section—

(a.) The tonnage of a steam ship shall be her gross (s)

(o) "Vessel" is a wider term than "ship;" see § 742.

(p) This includes matters not occurring on board the ship in fault, such as negligence of overlookers on shore. It is not limited to negligent navigation of the master and crew, but includes using a vessel which is not in fact in a condition to be so employed (*The Warkworth* (1884), 9 P. D. 145), so long as that condition is not due to the fault or known to the owner.

(q) The liability to damages is limited to these amounts, but the shipowner will be liable beyond these amounts—

(a.) For interest on such amounts from the date of the collision. *Straker v. Hartland* (1864), 2 Hem. & M. 570.

(b.) For the costs of the action. *Marsden*, Coll., 3rd edit. 177.

(c.) For statutory liabilities other than damages, as the cost of removing his vessel, whether under the Thames Conservancy Acts (*The Eltrick* (1881), 6 P. D. 127), or the Harbour Docks and Piers Clauses Act, 1847. Cf. notes to § 530.

The owner has also unlimited

liability for damages other than those mentioned in sub-sections (a.) to (d.), as for damage to piers. *River Wear Commissioners v. Adamson* (1877), 2 App. C. 743.

(r) See sub-s. 2 (a.).

(s) The only deduction a steamship can make from her gross tonnage is that of her duly certified crew space (cf. *The Petrol* (1893), P. 320; and proviso to this sub-section). She cannot deduct her navigation spaces (i.e. spaces for the master under § 79, s. 1 (a.) i.; or under sub-s. ii., iii. of the same sub-section): *The Umbilo* (1891), P. 118. Her double bottom is excluded under § 81: cf. *The Zanzibar* (1892), P. 283. A sailing ship pays on her registered tonnage, in arriving at which these spaces have already been deducted, and is therefore in a better position than a steamer.

The tonnage on the register is only *prima facie* evidence: cf. *The Receipta* (1889), 14 P. D. 131; and as to foreign ships, *The Franconia* (1878), 3 P. D. 164. The time to ascertain the tonnage is at the date of the collision: *The John McIntyre* (1881), 6 P. D. 200. See §§ 77, *et seq.*, and notes thereto. Cf. *The Pilgrim* (1895), P. 117.

tonnage without deduction on account of engine room (*t*); and the tonnage of a sailing ship shall be her registered tonnage (*u*):

Provided that there shall not be included in such tonnage any space occupied by seamen or apprentices and appropriated to their use (*x*) which is certified under the regulations scheduled to this Act (*y*) with regard thereto.

(*b*.) Where a foreign ship (*z*) has been or can be measured according to British law (*a*), her tonnage as ascertained by that measurement shall, for the purpose of this section, be deemed (*b*) to be her tonnage.

(*c*.) Where a foreign ship (*z*) has not been and cannot be measured according to British law (*a*), the surveyor general of ships in the United Kingdom (*c*), or the chief measuring officer of any British possession (*d*) abroad, shall, on receiving from or by the direction of the court hearing the case, in which the tonnage of the ship is in question, such evidence concerning the dimensions of the ship as it may be practicable to furnish, give a certificate under his hand stating what would in his opinion have been the tonnage of the ship if she had been duly measured according to British law (*a*), and the tonnage so stated in that certificate shall, for the purposes of this section, be deemed to be the tonnage of the ship.

(3.) The owner (*e*) of every sea-going (*f*) ship (*z*) or share therein shall be liable in respect of every such loss of life, personal injury, loss of or damage to vessels, goods, merchandise, or things as aforesaid arising on distinct occasions to the same extent as if no other loss, injury, or damage had arisen (*g*).

(*f*) § 78.

(*u*) § 77; and note (*s*), *ante*.

(*x*) § 79, s. 1.

(*y*) Schedule VI.

(*z*) Defined, § 742.

(*a*) § 77, and Schedule II.

(*b*) This is *prima facie* evidence, which may be disproved. Cf. *The Receipta*; *The Francoenta*; *supra*.

(*c*) § 724, s. 2.

(*d*) Int. Act, 1889, § 18, s. 2.

(*e*) Note to § 58. As to liability of part owners, see § 505.

(*f*) Which actually goes to sea. *Salt Union v. Wood* (1898), 1 Q. B. 370.

(*g*) In the case of two unconnected collisions, the owner will be liable to the statutory limit in each case.

Power of
courts to
consoli-
date
claims
against
owners,
&c.

1854, s.
514.
23 & 24
Vict. c.
126, s. 35.
24 & 25
Vict. c. 10,
s. 13.
30 & 31
Vict. c.
114, s. 36.

504. Where any liability is alleged to have been incurred by the owner (*g*) of a British (*h*) or foreign ship (*i*) in respect of loss of life, personal injury, or loss of or damage to vessels (*k*) or goods, and several claims are made or apprehended in respect of that liability, then, the owner may apply in England and Ireland to the High Court (*l*), or in Scotland to the Court of Session, or in a British possession (*m*) to any competent court, and that court may determine the amount of the owner's liability (*n*) and may distribute that amount rateably among the several claimants, and may stay any proceedings pending in any other court in relation to the same matter, and may proceed in such manner and subject to such regulations as to making persons interested parties to the proceedings, and as to the exclusion of any claimants who do not come in within a certain time, and as to requiring security from the owner, and as to payment of any costs, as the court thinks just.

Part
owners to
account in
respect of
damages.
1854, s.
515.

505. All sums paid for or on account of any loss or damage in respect whereof the liability of owners is limited under the provisions of this Part of the Act (*n*), and all costs incurred in relation thereto, may be brought into account among part owners of the same ship in the same manner as money disbursed for the use thereof (*o*).

Insurances
of certain
risks not
invalid.
1862, s. 55.

506. An insurance effected against the happening, without the owner's actual fault or privity, of any or all

The question is how many acts of improper navigation there are, and what damage is caused by each. The limitation of liability only extends to inseparable wrongful acts and their necessary consequences, and not to two distinct wrongful acts. *The Schwan* (1892), P. at p. 441; *The Rajah* (1872), L. R. 3 A. & E. 539.

(*g*) Note to § 58. As to liability of part owners, see § 505.

(*h*) Note to § 1.

(*i*) Defined, § 742.

(*k*) See note (*q*) to § 503.

(*l*) Admiralty Division. See M. S. Rules, 1894, Appendix II. An application for limitation of liability does

not admit liability. *The Amalia* (1863), Br. & L. 151.

(*m*) Int. Act, 1889, § 18, s. 2.

(*n*) § 503, s. 1. In a collision between two ships belonging to the same owner, neither the owner nor the underwriters on the injured ship can claim against the fund paid into court by the owner in respect of the wrong-doing ship. *Simpson v. Thompson* (1877), 3 App. C. 279; *The Petrol* (1893), P. 320. As to claims by the master and crew in such a case, see *The Petrol*, v. s.

(*o*) Accounts are taken between co-owners in the Admiralty Division.

of the events in respect of which the liability of owners is limited under this Part of this Act (o) shall not be invalid by reason of the nature of the risk.

507. In any proceeding under this Part of this Act against the owner of a ship or share therein with respect to loss of life (*p*), the passenger lists under the Third Part of this Act (*q*) shall be received as evidence that the person upon whose death proceedings are taken under this Part of this Act was a passenger (*r*) on board the ship at the time of death.

Proof of passengers on board ship. 1862, s. 56.

508. Nothing in this Part of this Act shall be construed to lessen or take away any liability to which any master (*s*) or seaman (*s*), being also owner or part owner of the ship to which he belongs, is subject in his capacity of master or seaman, or to extend to any British (*t*) ship which is not recognized as a British ship within the meaning of this Act (*u*).

Liability in certain cases not affected. 1854, s. 516.

509. This Part of this Act shall, unless the context otherwise requires, extend to the whole of Her Majesty's dominions.

Extent of Part VIII. 1854, s. 502.

(o) See note (*n*), p. 396.

(*p*) § 503, s. 1.

(*q*) § 311.

(*r*) Cf. § 267.

(*s*) Defined, § 742.

(*t*) Note to § 1.

(*u*) Cf. note (*k*) to § 503, and §§ 2, 72.

PART IX.

1854 = 17 & 18 Vict. c. 104.

1862 = 25 & 26 Vict. c. 63.

Int. Act, 1889 = Interpretation Act, 1889 (52 & 53 Vict. c. 63); see Appendix.

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Vessels in Distress.

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1854 = 17 & 18 Vict. c. 104.

1862 = 25 & 26 Vict. c. 63.

Int. Act, 1889 = Interpretation Act, 1889 (52 & 53 Vict. c. 63) ; see Appendix.

Marginal references are to the sections reproduced.

PART IX.

WRECK AND SALVAGE.

Vessels in Distress.

Definition of "wreck" and "salvage."
1854, s. 2.

Vessels in Distress.

510. In this Part of this Act unless the context otherwise requires—

- (1.) The expression "wreck" (*a*) includes jetsam (*b*), flotsam (*c*), lagan (*d*), and derelict (*e*) found in or on the shores of the sea or any tidal water (*f*).
- (2.) The expression "salvage" (*g*) includes all expenses, properly incurred by the salvor (*f*) in the performance of the salvage services.

(*a*) This definition formerly applied to the whole Act of 1854; and is now limited to Part IX. It does not cover timber which has accidentally broken loose in a river and drifted out to sea (*Palmer v. Rouse* (1858), 3 H. & N. 505); nor a barge which has broken adrift in the Thames without any one on board: *The Zeta* (1875), L. R. 4 A. & E. 460. It is, as now defined, wider than the common law meaning of "wreck."

(*b*) *Jetsam* = goods which have been cast out of a ship to lighten her, or after shipwreck, and which are afterwards cast ashore. 5 Co. Rep. 106 (*b*).

(*c*) *Flotsam* = fragments of, or

goods from, a wrecked vessel floating upon the sea. 5 Co. Rep. 106 (*b*); cf. *Palmer v. Rouse* (1858), 3 H. & N. 505.

(*d*) *Lagan* = heavy goods thrown overboard, marked by or tied to a buoy or cask. 5 Co. Rep. 106 (*b*).

(*e*) *Derelict* = a vessel abandoned by her crew, without intention to return or hope of recovery. Cf. *The Zeta* (1875), L. R. 4 A. & E. 460; *The Clarisse* (1855), Swab. 129; *The Aquila* (1798), 1 C. Rob. 37, per Lord Stowell; *The Fenix* (1855), Swab., 13.

(*f*) Defined, § 742.

(*g*) This partial definition is new.

511.—(1.) Where a British (*h*) or foreign vessel (*i*) is wrecked, stranded, or in distress at any place on or near the coasts of the United Kingdom or any tidal water within the limits of the United Kingdom, the receiver of wreck (*l*) for the district in which that place is situated shall, upon being made acquainted with the circumstance, forthwith proceed there, and upon his arrival shall take the command of all persons present, and shall assign such duties and give such directions to each person as he thinks fit for the preservation of the vessel and of the lives of the persons belonging to the vessel (in this Part of this Act referred to as shipwrecked persons) and of the cargo and apparel of the vessel.

Duty of receiver where vessel in distress. 1854, s. 441.

(2.) If any person wilfully disobeys the direction of the receiver (*l*), he shall for each offence be liable to a fine not exceeding fifty pounds (*m*); but the receiver (*l*) shall not interfere between the master (*k*) and the crew (*n*) of the vessel in reference to the management thereof, unless he is requested to do so by the master (*k*).

512.—(1.) The receiver (*l*) may, with a view to such preservation as aforesaid of shipwrecked persons (*o*) or of the vessel (*i*), cargo, or apparel—

Powers of the receiver in case of vessels in distress. 1854, s. 442.

(a) require such persons as he thinks necessary to assist him :

(b) require the master (*k*), or other person having the charge, of any vessel (*i*) near at hand to give such aid with his men, or vessel, as may be in his power :

(c) demand the use of any waggon, cart, or horses that may be near at hand.

(2.) If any person refuses without reasonable cause to comply with any such requisition or demand, that person shall, for each refusal, be liable to a fine not exceeding one hundred pounds (*m*); but a person shall not be liable to pay any duty in respect of any such waggon, cart, or horses,

(*h*) Note to § 1.

(*i*) Wider than "ship;" see notes to § 742.

(*k*) Defined, § 742.

(*l*) § 506.

(*m*) Procedure, §§ 680-684; fine how applicable, §§ 699, 716.

(*n*) See note to § 113.

(*o*) § 511, s. 1.

by reason only of the use of the same under this section (*p*).

Power to
pass over
adjoining
lands.
1854, ss.
446, 447.

513.—(1.) Whenever a vessel (*q*) is wrecked, stranded, or in distress as aforesaid, all persons may, for the purpose of rendering assistance to the vessel, or of saving the lives of the shipwrecked persons (*r*), or of saving the cargo or apparel of the vessel, unless there is some public road equally convenient, pass and repass, either with or without carriages or horses, over any adjoining lands without being subject to interruption by the owner or occupier, so that they do as little damage as possible, and may also, on the like condition, deposit on those lands any cargo or other article recovered from the vessel.

(2.) Any damage sustained by an owner or occupier in consequence of the exercise of the rights given by this section shall be a charge on the vessel, cargo, or articles in respect of or by which the damage is occasioned, and the amount payable in respect of the damage shall, in case of dispute, be determined and shall, in default of payment, be recoverable in the same manner as the amount of salvage is under this Part of this Act determined or recoverable (*s*).

(3.) If the owner or occupier of any land (*t*)—

- (a) impedes or hinders any person in the exercise of the rights given by this section by locking his gates, or refusing, upon request, to open the same, or otherwise ; or
- (b) impedes or hinders the deposit of any cargo or other article recovered from the vessel as aforesaid on the land ; or
- (c) prevents or endeavours to prevent any such cargo or other article from remaining deposited on the land for a reasonable time until it can be removed to a safe place of public deposit ;

(*p*) Of. 51 & 52 Vict. c. 8, s. 4.

(*q*) Wider than "ship;" see notes to § 742.

(*r*) § 511, s. 1.

(*s*) §§ 547, 548.

(*t*) Defined, Int. Act, 1889, § 3.

he shall for each offence be liable to a fine not exceeding one hundred pounds (*u*).

514.—(1.) Whenever a vessel (*x*) is wrecked, stranded, or in distress as aforesaid, and any person plunders, creates disorder, or obstructs the preservation of the vessel or of the shipwrecked persons (*y*) or of the cargo or apparel of the vessel, the receiver (*z*) may cause that person to be apprehended. Power of receiver to suppress plunder and disorder by force. 1854, s. 444.

(2.) The receiver (*z*) may use force for the suppression of any such plundering, disorder, or obstruction, and may command all Her Majesty's subjects to assist him in so using force.

(3.) If any person is killed, maimed, or hurt by reason of his resisting the receiver (*z*) or any person acting under the order of the receiver in the execution of the duties by this Part of this Act committed to the receiver (*z*), neither the receiver nor the person acting under his orders shall be liable to any punishment, or to pay any damages by reason of the person being so killed, maimed, or hurt.

515. Where a vessel (*x*) is wrecked, stranded, or in distress as aforesaid, and the vessel or any part of the cargo and apparel thereof, is plundered, damaged, or destroyed by any persons riotously and tumultuously assembled together, whether on shore or afloat, compensation shall be made to the owner of the vessel, cargo, or apparel ; Liability for damage in case of a vessel plundered. 1854, s. 477.

In England in the same manner, by the same authority, and out of the same rate, as if the plundering, damage, injury, or destruction were an injury, stealing, or destruction in respect of which compensation is payable under the provisions of the Riot (Damages) Act, 1886 (*a*), and in the case of the vessel, cargo, or apparel not being in any police district, as if the plundering, damage, injury, or destruction took place in the nearest police district ; 49 & 50 Vict. c. 38, s. 6.

(*u*) Procedure, §§ 680-684; fine how applicable, §§ 699, 716.

(*x*) Wider than "ship;" see notes to § 742.

(*y*) § 511, s. 1.

(*z*) § 566.

(*a*) 49 & 50 Vict. c. 38, §§ 2-6. The local authority to execute the Act is the County Council. 51 & 52 Vict. c. 41, s. 3.

In Scotland (*b*) by the inhabitants of the county, city, or borough in or nearest to which such offence is committed, in manner provided by the Riot Act (*b*), with respect to prosecutions for repairing the damages of any churches and other buildings, or as near thereto as circumstances permit, and

In Ireland (*c*) in manner provided by the Act of the Session held in the sixteenth and seventeenth year of the reign of Her present Majesty, chapter thirty-eight, intituled "An Act to extend the remedies for the compensation of malicious injuries to property in Ireland" with respect to damage to any dwelling-house or other property therein mentioned.

Exercise
of powers
of receiver
in his
absence.
1854,
s. 445.

516.—(1.) Where a receiver (*d*) is not present, the following officers or persons in succession (each in the absence of the other, in the order in which they are named) namely, any chief officer of customs (*e*), principal officer of the coast guard, officer of inland revenue, sheriff, justice of the peace, commissioned officer on full pay in the naval service of Her Majesty, or commissioned officer on full pay in the military service of Her Majesty, may do anything by this Part of this Act authorized to be done by the receiver (*d*).

(2.) An officer acting under this section for a receiver (*d*) shall, with respect to any goods or articles belonging to a vessel the delivery of which to the receiver is required by this Act (*f*), be considered as the agent of the receiver (*d*), and shall place the same in the custody of the receiver (*d*); but he shall not be entitled to any fees payable to receivers (*g*), or be deprived by reason of his so acting of any right to salvage to which he would otherwise be entitled (*h*).

Examina-
tion in
respect of

517.—(1.) Where any ship (*e*), British (*i*) or foreign, is or has been in distress on the coasts of the United Kingdom, a receiver of wreck (*d*), or at the request of the Board of Trade

(*b*) 1 Geo. I., s. 2, c. 5, s. 9.

(*c*) 16 & 17 Vict. c. 38.

(*d*) § 566.

(*e*) Defined, § 742.

(*f*) §§ 518, 519.

(*g*) § 567.

(*h*) As to coastguard, see § 568.

(*i*) Note to § 1.

a wreck commissioner (*m*) or deputy approved by the Board, ships in or, in the absence of the persons aforesaid, a justice of the peace, shall, as soon as conveniently may be, examine on oath (and they are hereby respectively empowered to administer the oath) any person belonging to the ship (*n*), or any other person who may be able to give any account thereof or of the cargo or stores thereof, as to the following matters; that is to say:—

- (a) the name and description of the ship;
- (b) the name (*n*) of the master and of the owners (*o*);
- (c) the names (*n*) of the owners of the cargo;
- (d) the ports (*n*) from and to which the ship was bound;
- (e) the occasion of the distress of the ship;
- (f) the services rendered; and
- (g) such other matters or circumstances relating to the ship, or to the cargo on board the same, as the person holding the examination thinks necessary.

(2.) The person holding the examination shall take the same down in writing (*p*), and shall send one copy thereof to the Board of Trade, and another to the secretary of Lloyd's (*q*) in London, and the secretary shall place it in some conspicuous situation for inspection.

(3.) The person holding the examination shall, for the purposes thereof, have all the powers of a Board of Trade inspector under this Act (*r*).

Dealing with Wreck (s).

518.—(1.) Where any person finds or takes possession of any wreck (*s*) within the limits of the United Kingdom he shall,—

(*m*) § 477.

(*n*) Defined, § 742.

(*o*) Note to § 58.

(*p*) This examination does not become admissible in evidence for the owner of the ship on whose behalf it is made, because the person making it has died. *The Henry Coxon* (1878), 8 P. D. 156. The case cited by Sir R. Phillimore in that decision was under § 449 of the Act of 1854, then repealed. *Semble*, that the examination is admissible in

evidence against a shipowner, if made by his servant or agent, it being the duty of the deponent to make such a statement.

(*q*) Lloyd's Royal Exchange, London.

(*r*) §§ 728–730.

(*s*) Cf. § 510, and notes thereto. *The Zeta* (1875), L. R. 4 A. & E. 460, there cited, was decided on the words of the section here reproduced.

Wreck.

Provision as to wreck found in the United Kingdom. 1854, s. 450.

(a.) If he is the owner thereof, give notice to the receiver (*t*) of the district stating that he has found or taken possession of the same, and describing the marks by which the same may be recognized ;

(b.) If he is not the owner thereof, as soon as possible deliver the same to the receiver of the district (*t*) :

and if any person fails (*u*), without reasonable cause, to comply with this section, he shall, for each offence, be liable to a fine not exceeding one hundred pounds (*x*), and shall in addition, if he is not the owner, forfeit any claim to salvage (*y*), and shall be liable to pay to the owner of the wreck (*z*) if it is claimed, or, if it is unclaimed to the person entitled to the same (*a*), double the value thereof, to be recovered in the same way as a fine of a like amount under this Act (*x*).

Penalty
for taking
wreck at
time of
casualty.
1854,
s. 443.

519.—(1.) Where a vessel (*b*) is wrecked, stranded, or in distress at any place on or near the coasts of the United Kingdom or any tidal water (*c*) within the limits of the United Kingdom, any cargo or other articles belonging to or separated from the vessel, which may be washed on shore or otherwise lost or taken from the vessel shall be delivered to the receiver (*t*).

(2.) If any person, whether the owner or not, secretes or keeps possession of any such cargo or article, or refuses to deliver the same to the receiver (*t*) or any person authorised by him to demand the same, that person shall for each offence be liable to a fine not exceeding one hundred pounds.

(3.) The receiver (*t*) or any person authorised as aforesaid may take any such cargo or article by force from the person so refusing to deliver the same.

Notice of
wreck to
be given

520. Where a receiver (*t*) takes possession of any wreck (*z*) he shall within forty-eight hours—

(*t*) § 566.

(*u*) Includes refusal; § 742.

(*z*) Procedure, §§ 1680-684; fine how applicable, §§ 699, 716.

(*y*) §§ 544-546.

(*z*) § 510, and notes thereto.

(*a*) § 523.

(*b*) Wider than "ship;" see notes to § 742.

(*c*) Defined, § 742.

(a.) cause to be posted in the custom house nearest to the place where the wreck (*d*) was found or was seized by him a description thereof and of any marks by which it is distinguished; and

(b.) if in his opinion the value of the wreck (*d*) exceeds twenty pounds, also transmit a similar description to the secretary of Lloyd's in London, and the secretary shall post it in some conspicuous position for inspection.

521.—(1.) The owner of any wreck (*d*) in the possession of the receiver (*e*), upon establishing his claim to the same to the satisfaction of the receiver within one year from the time at which the wreck (*d*) came into the possession of the receiver, shall, upon paying the salvage (*f*), fees (*g*), and expenses due, be entitled to have the wreck (*d*) or the proceeds thereof delivered up to him.

(2.) Where any articles belonging to or forming part of a foreign ship (*h*), which has been wrecked on or near the coasts of the United Kingdom, or belonging to and forming part of the cargo, are found on or near those coasts, or are brought into any port (*h*) in the United Kingdom, the consul general of the country to which the ship or in the case of cargo to which the owners of the cargo may have belonged, or any consular officer (*h*) of that country authorized in that behalf by any treaty or arrangement with that country, shall, in the absence of the owner and of the master (*h*) or other agent of the owner, be deemed to be the agent of the owner, so far as relates to the custody and disposal of the articles.

522. A receiver (*e*) may at any time sell any wreck (*d*) in his custody, if in his opinion—

(a.) it is under the value of five pounds, or

(b.) it is so much damaged or of so perishable a nature that it cannot with advantage be kept, or

(c.) it is not of sufficient value to pay for warehousing, and the proceeds of the sale shall, after defraying the

(*d*) § 510, and notes thereto.

(*e*) § 566.

(*f*) §§ 544-546.

(*g*) § 567.

(*h*) Defined, § 742.

by receiver;
1854,

s. 452.

expenses thereof, be held by the receiver for the same purposes and subject to the same claims, rights, and liabilities as if the wreck had remained unsold (*l*).

*Unclaimed
Wreck.*

Unclaimed Wreck.

Right of
Crown to
unclaimed
wreck.

17 Edw. II.
stat. 2,
c. 11:

Prerog.
Reg. (stat.
temp. in-
cert.) c. 13.
(Rev. Ed.).

Notice of
unclaimed
wreck to
be given
to persons
entitled.

1854,
ss. 454,
501.

Disposal
of un-
claimed
wreck.

1854,
ss. 471,
475.
1862, s. 53.

523. Her Majesty and Her Royal successors are entitled to all unclaimed wreck (*m*) found in any part of Her Majesty's dominions, except in places where Her Majesty or any of Her Royal predecessors has granted to any other person (*n*) the right to that wreck.

524.—(1.) Where any admiral, vice-admiral, lord of the manor, heritable proprietor duly infeft, or other person is entitled for his own use to unclaimed wreck (*m*) found on any place within the district of a receiver (*o*), he shall deliver to the receiver a statement containing the particulars of his title, and an address to which notices may be sent.

(2.) When a statement has been so delivered and the title proved to the satisfaction of the receiver (*o*), the receiver shall, on taking possession of any wreck (*m*) found at a place to which the statement refers, within forty-eight hours send to the address delivered a description of the wreck and of any marks by which it is distinguished.

525. Where no owner establishes a claim to any wreck (*m*), found in the United Kingdom and in the possession of a receiver (*o*), within one year after it came into his possession, the wreck shall be dealt with as follows; that is to say:—

(1.) if the wreck is claimed by any admiral, vice-admiral, lord of a manor, heritable proprietor, or other person who has delivered such a statement to the receiver as herein-before provided (*p*), and has proved to the satisfaction of the receiver (*o*) his title to receive unclaimed wreck (*m*) found at the place where that wreck (*m*) was found, the wreck (*m*) after payment of all expenses,

(*l*) §§ 521, 523, 525.

(*m*) § 510, and notes thereto.

(*n*) Includes corporations; Int. Act,

1889, § 19.

(*o*) § 566.

(*p*) § 524, s. 1.

costs, fees (*q*), and salvage (*r*) due in respect thereof, shall be delivered to him;

- (2.) if the wreck is not claimed by any admiral, vice-admiral, lord of a manor, heritable proprietor, or other person as aforesaid, the receiver (*s*) shall sell the same and shall pay the proceeds of the sale (after deducting therefrom the expenses of the sale, and any other expenses incurred by him, and his fees (*q*), and paying thereout to the salvors such amount of salvage (*r*) as the Board of Trade may in each case, or by any general rule, determine) for the benefit of the Crown, as follows, that is to say:—

- (a) if the wreck (*t*) is claimed in right of Her Majesty's duchy of Lancaster, to the receiver-general of that duchy or his deputies as part of the revenues of that duchy;
- (b) if the wreck (*t*) is claimed in right of the duchy of Cornwall, to the receiver-general of that duchy or his deputies as part of the revenues of that duchy; and
- (c) if the wreck (*t*) is not so claimed, the receiver (*s*) shall pay the proceeds of sale to the Mercantile Marine Fund (*u*) during the life of Her present Majesty, and after the decease of Her present Majesty to her heirs and successors.

526.—(1.) Where any dispute arises between any such admiral, vice-admiral, lord of a manor, heritable proprietor, or other person as aforesaid and the receiver (*s*) respecting title to wreck (*t*) found at any place, or, where more persons than one claim title to that wreck (*t*) and a dispute arises between them as to that title, that dispute may be referred and determined in the same manner as if it were a dispute as to salvage to be determined summarily under this Part of this Act (*x*).

- (2.) If any party to the dispute is unwilling to have the

(*q*) § 567.
 (*r*) §§ 544–546.
 (*s*) § 566.

(*t*) § 510, and notes thereto.
 (*u*) § 876, s. 1 (*g*).
 (*x*) § 548.

Disputed
 title to
 unclaimed
 wreck.
 1854,
 ss. 472,
 473.

same so referred and determined, or is dissatisfied with the decision on that determination, he may within three months after the expiration of a year from the time when the wreck (*y*) has come into the receiver's (*z*) hands, or from the date of the decision, as the case may be, take proceedings in any court having jurisdiction in the matter for establishing his title.

Delivery of un-claimed wreck by receivers not to prejudice title.
1862, s. 52.

527. Upon delivery of wreck (*y*) or payment of the proceeds of sale of wreck (*y*) by a receiver (*z*), in pursuance of the provisions of this Part of this Act (*a*), the receiver (*z*) shall be discharged from all liability in respect thereof, but the delivery thereof shall not prejudice or affect any question which may be raised by third parties concerning the right or title to the wreck (*y*), or concerning the title to the soil of the place on which the wreck was found.

Power to Board of Trade to purchase rights to wreck.
1854, s. 474.

528.—(1.) The Board of Trade may, with the consent of the Treasury, out of the revenue arising under this Part of this Act, purchase for and on behalf of Her Majesty any rights to wreck (*y*) possessed by any person other than Her Majesty.

(2.) For the purpose of a purchase under this section, the provisions of the Lands Clauses Act (*b*) relating to the purchase of lands by agreement shall be incorporated with this Part of this Act, and in the construction of those Acts for the purposes of this section this Part of this Act shall be deemed to be the special Act, and any such right to wreck (*y*) as aforesaid shall be deemed to be an interest in land authorized to be taken by the special Act, and Her Majesty shall be deemed to be the promoter of the undertaking.

Admiral not to interfere with wreck.
1854, ss. 440.

529. No admiral, vice-admiral, or other person, under whatever denomination, exercising Admiralty jurisdiction, shall, as such, by himself or his agents, receive, take, or interfere with any wreck except as authorized by this Act (*c*).

(*y*) § 510, and notes.

(*a*) § 586.

(*a*) §§ 521, 525.

(*b*) Int. Act, 1889, § 23.

(*c*) §§ 524, 525.

Removal of Wrecks.

*Removal
of Wrecks.*

530. Where any vessel (*d*) is sunk, stranded, or abandoned in any harbour (*e*) or tidal water (*e*) under the control of a harbour (*e*) or conservancy authority (*e*), or in or near any approach thereto, in such manner as in the opinion of the authority to be, or be likely to become, an obstruction or danger to navigation or to lifeboats engaged in lifeboat service (*e*) in that harbour (*e*) or water (*e*) or in any approach thereto, that authority may—

- (a) take possession of, and raise, remove, or destroy (*f*) the whole or any part of the vessel (*d*); and
- (b) light or buoy any such vessel (*d*) or part until the raising, removal, or destruction thereof; and
- (c) sell, in such manner as they think fit, any vessel (*d*) or part so raised or removed, and also any other property recovered in the exercise of their powers under this section, and out of the proceeds of the sale reimburse themselves for the expenses incurred by them in relation thereto under this section, and the authority shall hold the surplus, if any, of the proceeds in trust for the persons entitled thereto (*g*).

Provided as follows:—

(*d*) Wider than "ship;" see § 742, and note. It here includes all cargo and equipment; see § 532.

(*e*) Defined, § 742.

(*f*) e.g. with dynamite.

(*g*) There is no power given by this section to recover the deficit from the owner, if the expenses exceed the proceeds. This power only exists where the harbour authorities have incorporated in their governing Acts the Harbours, Docks, and Piers Clauses Act, 1847 (10 & 11 Vict. c. 27), § 56, i.e. "The harbour master may remove any wreck or other obstruction to the harbour, dock, or pier, or the approaches to the same, and also any floating timber which impedes the navigation thereof, and the expense of removing any such wreck, obstruction, or floating timber shall be repaid by the owner of the same, and the harbour master

may detain any such wreck or floating timber for securing the expenses, and, on non-payment of such expenses on demand, may sell such wreck or floating timber, and out of the proceeds of such sale pay such expenses, rendering the overplus, if any, to the owner on demand."

In *The Arrow Shipping Co. v. Tyne Commissioners, The Crystal* (1894), A. C. 508, the House of Lords held: (1) overruling *The Edith* (1883), 11 L. R. Ir. Ch. 270, that this clause gave a personal remedy against the owner; (2) overruling *The Earl of Eglinton v. Norman* (1877), 36 L. T. 888, that the owner who could be sued was not the owner at the time the wreck became an obstruction, but the owner at the time the expenses were incurred.

Removal
of wreck
by harbour
or con-
servancy
authority.
40 & 41
Vict. c. 16,
s. 4.
52 & 53
Vict. c. 5,
s. 4.

- (1.) A sale shall not (except in the case of property which is of a perishable nature, or which would deteriorate in value by delay) be made under this section until at least seven clear days' notice of the intended sale has been given by advertisement in some local newspaper circulating in or near the district over which the authority have control; and
- (2.) At any time before any property is sold under this section, the owner thereof shall be entitled to have the same delivered to him on payment to the authority of the fair market value thereof, to be ascertained by agreement between the authority and the owner, or failing agreement by some person to be named for the purpose by the Board of Trade, and the sum paid to the authority as the value of any property under this provision shall, for the purposes of this section, be deemed to be the proceeds of sale of that property.

Power of
lighthouse
authority
to remove
wreck.
40 & 41
Vict. c. 16,
s. 5.
43 & 44
Vict. c. 22,
s. 5.
52 & 53
Vict. c. 5,
ss. 4, 5.

531.—(1.) Where any vessel (*h*) is sunk, stranded, or abandoned in any fairway, or on the seashore or on or near any rock, shoal, or bank, in the British Islands (*i*), or any of the adjacent seas or islands, and there is not any harbour (*k*) or conservancy authority (*k*) having power to raise, remove, or destroy the vessel, the general lighthouse authority (*l*) for the place in or near which the vessel is situate shall, if in their opinion the vessel (*k*) is, or is likely to become, an obstruction or danger to navigation or to lifeboats engaged in the lifeboat service (*k*), have the same powers in relation thereto as are by this Part of this Act conferred upon a harbour or conservancy authority (*m*).

(2.) All expenses incurred by the general lighthouse authority (*l*) under this section, and not reimbursed in manner provided by this Part of this Act (*n*), shall be paid out of the Mercantile Marine Fund (*o*), but shall be subject to the like estimate, account, and sanction as the expenses

(*h*) Wider than "ship;" see § 742, and notes. Includes cargo and equipment; § 532.

(*i*) Int. Act, 1889, § 18, s. 1.

(*k*) Defined, § 742.

(*l*) § 634.

(*m*) § 530.

(*n*) § 530, s. (c.).

(*o*) § 677, s. (a.).

of a general lighthouse authority, other than establishment expenses (*p*).

532. The provisions of this Part of this Act relating to removal of wrecks shall apply to every article or thing or collection of things being or forming part of the tackle, equipments, cargo, stores, or ballast of a vessel in the same manner as if it were included in the term "vessel," and for the purposes of these provisions any proceeds of sale arising from a vessel and from the cargo thereof, or any other property recovered therefrom, shall be regarded as a common fund (*q*).

Powers of removal to extend to tackle, cargo, &c. 40 & 41 Vict. c. 16, s. 6.

533. If any question arises between a harbour (*r*) or conservancy (*r*) authority on the one hand and a general lighthouse authority (*s*) on the other hand as to their respective powers under this Part of this Act for the removal of wrecks, in relation to any place being in or near an approach to a harbour (*r*) or tidal water (*r*), that question shall, on the application of either authority, be referred to the decision of the Board of Trade, and the decision of that Board shall be final.

Power for Board of Trade to determine certain questions between authorities. 40 & 41 Vict. c. 16, s. 7.

534. The powers conferred by this Part of this Act on a harbour (*r*), conservancy (*r*), or lighthouse (*s*), authority, for the removal of wrecks shall be in addition to and not in derogation of any other powers for a like object (*t*).

Powers to be cumulative. 40 & 41 Vict. c. 16, s. 8.

Offences in respect of Wreck (u).

Offences in respect of Wreck.

535. If any person takes into any foreign port (*r*) any vessel (*x*), stranded, derelict, or otherwise in distress, found on or near the coasts of the United Kingdom or any tidal water (*r*) within the limits of the United Kingdom, or any part of the cargo or apparel thereof, or anything belonging

Taking wreck to foreign port. 1854, s. 479.

- (*p*) §§ 658-661.
 (*q*) There is no contribution between cargo-owner and shipowner in respect of these expenses.
 (*r*) Defined, § 742.
 (*s*) § 634.
 (*t*) *e.g.* to the powers under the Harbours Clauses Act, 1847; see note (*g*), to § 530. The authority,

- therefore, can apportion the expenses so as to put those for which there is no personal remedy on the fund under § 532; and to recover the rest from the owner under the Act of 1847. Cf. *The Crystal* (1894), A. C. 508.
 (*u*) § 510, and notes.
 (*x*) Wider than "ship;" see notes to § 742.

thereto, or any wreck found within those limits, and there sells the same, that person shall be guilty of felony, and on conviction thereof shall be liable to be kept in penal servitude for a term not less than three years and not exceeding five years.

Inter-
fering
with
wrecked
vessel or
wreck.
1854, s.
478.

536.—(1.) A person shall not without the leave of the master (*y*) board or endeavour to board any vessel (*z*) which is wrecked, stranded, or in distress, unless that person is, or acts by command of, the receiver (*a*) or a person lawfully acting as such, and if any person acts in contravention of this enactment, he shall for each offence be liable to a fine not exceeding fifty pounds (*b*), and the master (*y*) of the vessel may repel him by force.

(2.) A person shall not—

(*a*.) impede or hinder, or endeavour in any way to impede or hinder, the saving of any vessel (*z*) stranded or in danger of being stranded, or otherwise in distress on or near any coast or tidal water (*y*), or of any part of the cargo or apparel thereof, or of any wreck (*c*);

(*b*.) secrete any wreck (*c*), or deface or obliterate any marks thereon; or

(*c*.) wrongfully carry away or remove any part of a vessel (*z*) stranded or in danger of being stranded, or otherwise in distress, on or near any coast or tidal water (*y*), or any part of the cargo or apparel thereof, or any wreck (*c*),

and if any person acts in contravention of this enactment, he shall be liable for each offence to a fine not exceeding fifty pounds (*b*), and that fine may be inflicted in addition to any punishment to which he may be liable by law under this Act or otherwise.

Summary
procedure
for con-
cealment
of wreck.
1854, s.
45.

537.—(1.) Where a receiver (*a*) suspects or receives information that any wreck (*c*) is secreted or in the possession of some person, who is not the owner thereof or that any

(*y*) Defined, § 742.

(*z*) Wider than "ship;" see notes to § 742.

(*a*) § 566.

(*b*) Procedure, §§ 680-684; fine how applicable, §§ 699, 716.

(*c*) § 510, and notes.

wreck (*d*) is otherwise improperly dealt with, he may apply to any justice of the peace for a search warrant, and that justice shall have power to grant such a warrant, and the receiver (*e*), by virtue thereof, may enter any house, or other place, wherever situate, and also any vessel (*f*), and search for, seize, and detain any such wreck (*d*) there found.

(2.) If any such seizure of wreck (*d*) is made in consequence of information given by any person to the receiver (*e*), on a warrant being issued under this section, the informer shall be entitled, by way of salvage, to such sum not exceeding in any case five pounds as the receiver (*e*) may allow.

Marine Store Dealers.

538.—(1.) Every person (*g*) dealing in, buying, or selling, any of the articles following, that is to say, anchors, cables, sails, old junk, or old iron, or other marine stores of any kind (in this Part of this Act called a marine store dealer) shall have his name, together with the words “dealer in marine stores,” distinctly painted, in letters of not less than six inches in length on every warehouse and place of deposit belonging to him.

*Marine
Store
Dealers.*

Marine
store
dealer to
have his
name and
trade
painted on
his shop.
1854, s.
480 (1).

(2.) If a marine store dealer (*h*) fails (*i*) to comply with the requirements of this section, he shall for each offence be liable to a fine not exceeding twenty pounds (*k*).

539.—(1.) Every marine store dealer (*h*) shall keep proper books, and enter therein an account of all marine stores of which he becomes possessed, stating in respect of each article the time at which and the person from whom he purchased or received the same, and a description of the business and place of abode of that person.

Marine
store
dealer to
keep
proper
books.
1854, s.
480 (2).

(2.) If a marine store dealer (*h*) fails (*i*) to comply with the requirements of this section he shall be liable to a fine

- (*d*) § 510, and notes thereon.
- (*e*) § 566.
- (*f*) Wider than “ship;” see § 742, and notes.
- (*g*) Includes corporations; Int. Act, S.M.S.A.

- 1889, §§ 2, 19.
- (*h*) § 538, s. 1.
- (*i*) Includes refusal; § 742.
- (*k*) Procedure, §§ 680–684; fine how applicable, §§ 699, 716.

for the first offence not exceeding twenty pounds, and for every subsequent offence not exceeding fifty pounds (*l*).

Marine
store
dealer
not to
purchase
from per-
sons under
sixteen.
1854, s.
480 (3).

540.—(1.) A marine store dealer (*m*) shall not by himself or his agents purchase marine stores of any description from any person apparently under the age of sixteen years.

(2.) If a marine store dealer (*m*) so purchases any marine store, he shall be liable to a fine for the first offence not exceeding five pounds, and for every subsequent offence not exceeding twenty pounds (*l*).

Marine
Store
dealer not
to cut up
cable, &c.
1854, ss.
480, 481.

541.—(1.) A marine store dealer (*m*) shall not, on any pretence, cut up any cable or other like article exceeding five fathoms in length, or unlay the same into twine or paper stuff without obtaining a written permit as required by this section (*n*).

(2.) In order to obtain a written permit a marine store dealer (*m*) shall make a declaration before some justice of the peace having jurisdiction where the dealer resides (*o*), stating—

(a.) the quality and description of the cable or other like article about to be cut up or unlayd;

(b.) the name and description of the person from whom he purchased or received the same; and

(c.) that he has purchased or otherwise acquired the same without fraud and without any knowledge or suspicion that it has been come by dishonestly:

and either the justice of the peace before whom the declaration is made (*o*), or the receiver of the district (*p*), upon the production of the declaration, may grant a permit authorizing the marine store dealer (*m*) to cut up or unlay the cable or other article.

(3.) If a marine store dealer (*m*) cuts up or unlays any cable or other article without complying with the provisions of this section he shall be liable to a fine for the

(*l*) *Procedurc*, §§ 680-684; fine how applicable, §§ 699, 716.

(*m*) § 538, s. 1.

(*n*) § 541, s. 2.

(*o*) May also be made before a

commissioner for oaths; § 698. *See quere* whether this section applies here, in view of the judicial functions to be exercised.

(*p*) § 566.

first offence not exceeding twenty pounds, and for every subsequent offence not exceeding fifty pounds (*q*).

542.—(1.) A marine store dealer (*r*) who has obtained a permit as aforesaid (*s*) shall not proceed by virtue thereof to cut up or unlay any cable or other article until he has for the space of one week, at the least, published in some newspaper circulating in the place where he resides one or more advertisements, notifying the fact of his having so obtained a permit, and specifying the nature of the cable or article mentioned in the permit, and the place where it is deposited, and the time at which it is intended to be so cut up or unlayed.

Permit to be advertised before dealer proceeds to act thereon. 1854, s. 483.

(2.) If any person suspects or believes that the cable or other article is his property he may apply to a justice of the peace for a warrant, and that justice may, on the sworn statement of the applicant, grant a warrant entitling the applicant to require the production by the marine store dealer (*r*) of the cable or article mentioned in the permit, and also of the books required under this Part of this Act to be kept by the marine store dealer (*t*), and authorizing the applicant to inspect and examine the cable or article or books.

(3.) If a marine store dealer (*r*) fails (*u*) without reasonable cause to comply with any of the requirements of this section, he shall be liable for the first offence to a fine not exceeding twenty pounds, and for every subsequent offence to a fine not exceeding fifty pounds (*q*).

Marking of Anchors.

Marking of Anchors.

543.—(1.) Every manufacturer of anchors shall mark on every anchor manufactured by him in legible characters and both on the crown and also on the shank under the stock his name or initials, and shall in addition mark on the anchor a progressive number and the weight of the anchor.

Marking of anchors. 1854, s. 483.

(*q*) Procedure, §§ 680-684; fine how applicable, §§ 699, 716.

(*r*) § 538, s. 1.

(*s*) § 541, s. 2.

(*t*) § 539.

(*u*) Includes refusal; § 742.

(2.) If a manufacturer of anchors fails (*x*) without reasonable cause to comply with this section, he shall be liable for each offence to a fine not exceeding five pounds (*y*).

Salvage.

Salvage
payable
for saving
life.
1854, ss.
458, 459.
24 Vict. c.
10, s. 9.

Salvage.

544.—(1.) Where services are rendered wholly or in part within British waters (*z*) in saving life from any British (*a*) or foreign vessel, or elsewhere in saving life from any British (*a*) vessel, there shall be payable to the salvor (*b*) by the owner (*c*) of the vessel (*d*), cargo, or apparel saved, a reasonable amount of salvage (*e*), to be determined in case of dispute in manner herein-after mentioned (*f*).

(2.) Salvage (*e*) in respect of the preservation of life when payable by the owners (*c*) of the vessel (*d*) shall be payable in priority to all other claims for salvage (*g*).

(3.) Where the vessel (*d*), cargo, and apparel are destroyed, or the value thereof is insufficient, after payment of the actual expenses incurred (*h*), to pay the amount of salvage (*c*) payable in respect of the preservation of life, the Board of Trade may, in their discretion, award to the salvor, out of the mercantile marine fund (*i*), such sum as they think fit in whole or part satisfaction of any amount of salvage (*e*) so left unpaid.

Salvage of
life from
foreign
vessels.
1862, ss.
59, 61, 62.

545. When it is made to appear to Her Majesty that the government of any foreign country is willing that salvage (*c*)

(*x*) Includes refusal; § 742.

(*y*) Procedure, §§ 680-684; fine how applicable, §§ 699, 716.

(*z*) Bays and estuaries and three miles round the coast, from low-water mark. *R. v. Keyn* (1878), 2 Ex. D. 63.

(*a*) Notes to § 1.

(*b*) A claim for life salvage cannot be made unless some property has been saved. *The Renpor* (1883), 8 P. D. 115. *Cargo ex Sarpedon* (1877), 3 P. D. 28; *The Fusilier* (1865), 3 Moore, P. C. N. S. 51. In *The Annie* (1886), 12 P. D. 50, a ship was raised, but sold for less than the cost of raising her, and it was held that there was nothing to which a claim for life salvage could attach. For salvage generally, see Scrutton on Charters, article 121; Newson on

Salvage, Towage, and Pilotage.

(*c*) Note to § 58.

(*d*) Wider than "ship;" see § 742, and notes.

(*e*) § 510, and notes.

(*f*) § 547.

(*g*) Life salvage is only payable if some property is saved (see note (*b*) *supra*); and, if so, it may be recovered from either vessel or cargo, though the life-salvors and the cargo-salvors are different persons. *The Fusilier*, *c. s.*; *Cargo ex Schiller* (1876), 2 P. D. 145. A claim for saving life on the high seas from a foreign ship cannot be supported under the statute. *The Johannes* (1861), Lush. 182.

(*h*) Cf. *The Annie*, *c. s.*

(*i*) § 577, *s. (i)*.

should be awarded by British courts for services rendered in saving life from ships (*k*) belonging to that country, when the ship is beyond the limits of British jurisdiction (*l*), Her Majesty may, by Order in Council (*m*), direct that the provisions of this Part of this Act with reference to salvage of life (*n*) shall, subject to any conditions and qualifications contained in the Order, apply, and those provisions shall accordingly apply to those services as if they were rendered in saving life from ships within British jurisdiction.

546. Where any vessel (*o*) is wrecked, stranded, or in distress at any place on or near the coasts of the United Kingdom or any tidal water (*k*) within the limits of the United Kingdom, and services are rendered by any person in assisting (*p*) that vessel (*o*) or saving the cargo or apparel of that vessel or any part thereof, and where services are rendered by any person other than a receiver (*q*) in saving any wreck (*r*), there shall be payable to the salvor (*s*) by the owner (*t*) of the vessel, cargo, apparel, or wreck (*r*), a reasonable amount of salvage (*r*) to be determined in case of dispute in manner herein-after mentioned (*u*).

Salvage of cargo or wreck. 1854, s. 458.

Procedure in Salvage.

547.—(1.) Disputes as to the amount of salvage (*r*) whether of life or property, and whether rendered within or without the United Kingdom arising between the salvor and the owners (*t*) of any vessel (*o*), cargo, apparel, or wreck (*r*), shall, if not settled by agreement, arbitration, or otherwise, be determined summarily in manner provided by this Act (*x*), in the following cases, namely (*y*):—

Procedure in Salvage.

Determination of salvage disputes. 1854, s. 460. 1862, s. 49.

(a.) In any case where the parties to the dispute consent :

- (*k*) Defined, § 742.
- (*l*) See note (*z*), p. 420.
- (*m*) § 738.
- (*n*) § 544.
- (*o*) Wider than "ship;" see § 742, and notes.
- (*p*) For distinction between assisting under a towage contract, and assisting by way of salvage, see *The Liverpool* (1893), P. 154.
- (*q*) § 566.

- (*r*) § 510, and notes.
- (*s*) See note (*b*), p. 420.
- (*t*) Notes to § 58.
- (*u*) § 547.
- (*x*) § 547, s. 4.
- (*y*) This includes claims for apportionment of salvage, when the salvage has not been awarded summarily. *The Glannibanta* (1876), 2 P. D. 45.

(b.) In any case where the value of the property saved does not exceed one thousand pounds (*y*):

(c.) In any case where the amount claimed (*z*) does not exceed in Great Britain three hundred pounds, and in Ireland two hundred pounds (*a*).

(2.) Subject as aforesaid, disputes as to salvage shall be determined by the High Court (*b*) in England or Ireland, or in Scotland the Court of Session, but if the claimant does not recover in any such court in Great Britain more than three hundred pounds, and in any such court in Ireland more than two hundred pounds, he shall not be entitled to recover any costs, charges, or expenses incurred by him in the prosecution of his claim, unless the court before which the case is tried certify that the case is a fit one to be tried otherwise than summarily in manner provided by this Act (*c*).

(9.) Disputes relating to salvage (*d*) may be determined on the application either of the salvor or of the owner of the property saved, or of their respective agents.

(4.) Where a dispute as to salvage (*d*) is to be determined summarily under this section it shall be referred and determined as follows:—

(a.) In England it shall be referred to and determined by a county court having Admiralty jurisdiction by virtue of the County Courts Admiralty Jurisdiction Act, 1868 (*e*), or any Act amending the same:

(*y*) It was decided, in *The William and John* (1863), Br. and Lush. 49, that the Admiralty Court, under these sections, had no power to hear a case where the value of the property was under £1000; but the County Courts Admiralty Jurisdiction Act, 1868 (31 & 32 Vict. c. 71, s. 9), was held to have restored the jurisdiction, subject to the power of condemning the plaintiff in costs, if the action was not a fit one for the High Court. Cf. *The Empress* (1872), L. R. 3 A. & E. 502. The value is assessed at the place where and the time when the property is brought into

safety. *The Norma* (1860), Lush. 124; *The Stella* (1867), L. R. 1 A. & E. 340.

(*z*) Before the proceedings at law, not in them. *The William and John*, *v. s.*

(a) Though the value of the property exceeds £1000. *The Glannibanta* (1876), 2 P. D. 45.

(b) Defined, Int. Act, 1889, § 13, s. 3. Assigned to the Admiralty Division by Rule 1 of Merchant Shipping Rules, 1894, Appendix II.

(c) § 547, s. 4.

(d) § 510.

(e) 31 & 32 Vict. c. 71, s. 2.

(b.) In Scotland it shall be referred to and determined by the sheriff's court :

(c.) In Ireland it shall be referred to the arbitration of and determined by two justices of the peace, or a stipendiary magistrate, or the recorder of any borough having a recorder, or the chairman of quarter sessions in any county, and any such justices, stipendiary, magistrate, recorder, or chairman are herein-after included in the expression "arbitrators."

(5.) Nothing in this Act relating to the procedure in salvage cases shall affect the jurisdiction or procedure in salvage cases of a county court having Admiralty jurisdiction by virtue of the County Courts Admiralty Jurisdiction Act, 1868 (*g*), or the Court of Admiralty (Ireland) Act, 1867 (*h*), or any Act amending either of those Acts.

548.—(1.) Disputes as to salvage which are to be determined summarily in manner provided by this Act shall (*i*)—
 (a.) where the dispute relates to the salvage (*k*) of wreck (*k*) be referred to a court or arbitrators (*i*) having jurisdiction at or near the place where the wreck (*b*) is found :

Deter-
mination
of disputes
as to sal-
vage sum-
marily.
1854, ss.
460-465.
1862, s.
49.

(b.) where the dispute relates to salvage (*k*) in the case of services rendered to any vessel (*l*) or to the cargo or apparel thereof or in saving life therefrom be referred to a court or arbitrators (*i*) having jurisdiction at or near the place where the vessel is lying, or at or near the port (*m*) in the United Kingdom into which the vessel is first brought after the occurrence by reason whereof the claim of salvage (*k*) arises.

(2.) Any court or arbitrators (*i*) to whom a dispute as to salvage is referred for summary determination may, for the purpose of determining any such dispute, call in to their assistance any person conversant with maritime affairs as assessor, and there shall be paid as part of the costs of the proceedings to every such assessor in respect

(*g*) 31 & 32 Vict. c. 71, s. 2.

(*h*) 30 & 31 Vict. c. 114, s. 74.

(*i*) § 547.

(*k*) Defined, § 510, and notes.

(*l*) Wider than "ship;" see § 742, and notes.

(*m*) Defined, § 742.

of his services such sum not exceeding five pounds as the Board of Trade may direct.

Appeal in
case of
salvage
disputes.
1854, s.
464.

549.—(1.) Where a dispute relating to salvage(*n*) has been determined summarily in manner provided by this Act(*o*), any party aggrieved by the decision may appeal therefrom—

(*a*) in Great Britain, in like manner as in the case of any other judgment in an Admiralty or maritime cause of the county court or sheriff's court, as the case may be(*p*); and

(*b*) in Ireland, to the High Court, but only if the sum in dispute(*q*) exceeds fifty pounds, and the appellant within ten days after the date of the award gives notice to the arbitrators(*r*) of his intention to appeal and, within twenty days after the date of the award, takes such proceedings as, according to the practice of the High Court, are necessary for the institution of an appeal.

(2.) In the case of an appeal from arbitrators(*r*) in Ireland the arbitrators shall transmit to the proper officer of the court of appeal a copy on unstamped paper certified under their hands to be a true copy of the proceedings had before them or their umpire (if any) and of the award so made by them or him, accompanied with their or his certificate in writing of the gross value of the article respecting which salvage(*n*) is claimed; and such copy and certificate shall be admitted in the court of appeal as evidence in the case.

As to
arbitrators
in Ireland.

550.—(1.) The Lord Lieutenant in Ireland may appoint, out of the justices for any borough or county, a rota of

(*n*) § 510.

(*o*) § 547.

(*p*) 31 & 32 Vict. c. 71, §§ 26–28, 30, 31, as modified by the County Courts Act, 1888 (51 & 52 Vict. c. 43, § 120); cf. *The Eden* (1892), P. 67; affirmed in *The Delano* (C. A.), (1895), P. 40. A party aggrieved may now appeal on a point of law,

though the amount in dispute is under £50, and though he has not given security for costs.

(*q*) That is, the sum claimed by the salvors. *The Andrew Wilson* (1863), Br. & L. 56; *The Mary Ann* (1865), Br. & L. 334.

(*r*) § 547, s. 4 (*c*).

justices, by whom jurisdiction in salvage cases under this Part of this Act shall be exercised. 1854, ss. 460-465.

(2.) Where no such rota is appointed the salvors may, by writing addressed to the justices' clerk, name one justice and the owner of the property saved may in like manner name another justice to be arbitrators^(s); and if either party fails to name a justice within a reasonable time the case may be tried by two or more justices at petty sessions.

(3.) Where a dispute as to salvage^(t) is referred to justices under this Act, they may, if a difference of opinion arises between them, or without such difference, if they think fit, appoint some person conversant with maritime affairs as umpire to decide the point in dispute.

(4.) The arbitrators^(s), within forty-eight hours after any such dispute has been referred to them, and the umpire (if any) within forty-eight hours after his appointment, shall make an award as to the amount of salvage payable, with power nevertheless for such arbitrators or umpire, by writing, duly signed, to extend the time for so making the award.

(5.) There shall be paid to every umpire appointed as aforesaid, in respect of his services, such sum not exceeding five pounds as the Board of Trade may direct.

(6.) All the costs of such arbitration, including any such payment to an umpire as aforesaid, shall be paid by the parties to the dispute, in such manner, and in such shares and proportions, as the arbitrators or umpire may direct by the award.

(7.) The arbitrators or umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties and their witnesses on oath, and administer the oaths necessary for that purpose.

(8.) A Secretary of State^(u) may determine the scale of costs to be awarded in salvage cases determined by arbitrators under this Part of this Act.

(s) § 547.

(t) § 510.

(u) Int. Act, 1889, § 12, s. 3.

Valuation
of property
by re-
ceiver.
1862, s. 50.

551.—(1.) Where any dispute as to salvage (*u*) arises, the receiver (*x*) of the district where the property is in respect of which the salvage claim is made, may, on the application of either party, appoint a valuer to value that property, and shall give copies of the valuation to both parties.

(2.) Any copy of the valuation purporting to be signed by the valuer, and to be certified as a true copy by the receiver, shall be admissible as evidence (*y*) in any subsequent proceeding.

(3.) There shall be paid in respect of the valuation by the person applying for the same such fee as the Board of Trade may direct.

Detention
of property
liable for
salvage by
a receiver.
1854, s.
468.
1862, s. 51.

552.—(1.) Where salvage (*u*) is due to any person under this Act, the receiver (*x*) shall—

(*a*.) if the salvage (*u*) is due in respect of services rendered in assisting (*z*) any vessel (*a*), or in saving life therefrom (*b*), or in saving the cargo or apparel thereof (*z*), detain (*c*) the vessel (*a*) and cargo or apparel; and

(*b*.) if the salvage (*u*) is due in respect of the saving of any wreck (*u*), and the wreck is not sold as unclaimed under the Act (*d*), detain the wreck.

(2.) Subject as herein-after mentioned (*e*), the receiver (*x*) shall detain the vessel (*a*) and the cargo and apparel, or the wreck (herein-after referred to as detained property) until payment is made for salvage (*x*), or process is issued for the arrest or detention thereof by some competent court (*f*).

(3.) A receiver (*x*) may release any detained property (*g*) if security is given to his satisfaction or, if the claim for salvage (*u*) exceeds two hundred pounds and any question is raised as to the sufficiency of the security, to the satis-

(*u*) § 510; see §§ 544–546.

(*x*) § 566.

(*y*) § 695.

(*z*) § 546.

(*a*) Wider than “ship;” see § 742, and notes.

(*b*) § 544.

(*c*) §§ 553, 692.

(*d*) § 525, s. 2.

(*e*) Sub-s. 3.

(*f*) *e.g.* arrest by the Admiralty Division of the High Court.

(*g*) § 552, s. 2.

faction in England or Ireland of the High Court (*h*), and in Scotland of the Court of Session, including any division of that court, or the lord ordinary officiating on the bills during vacation.

(4.) Any security given for salvage in pursuance of this section to an amount exceeding two hundred pounds may be enforced by such court as aforesaid (*i*) in the same manner as if bail had been given in that court.

553.—(1.) The receiver (*k*) may sell any detained property (*l*) if the persons liable to pay the salvage in respect of which the property is detained are aware of the detention, in the following cases, namely—

Sale of detained property by receiver. 1854, s. 469.

(a.) where the amount is not disputed, and payment of the amount due is not made within twenty days after the amount is due, or,

(b.) where the amount is disputed, but no appeal lies (*m*) from the first court to which the dispute is referred, and payment is not made within twenty days after the decision of the first court, or

(c.) where the amount is disputed, and an appeal lies from the decision of the first court to some other court (*n*), and within twenty days of the decision of the first court neither payment of the sum due is made nor proceedings are commenced for the purpose of appeal.

(2.) The proceeds of sale of detained property (*l*) shall, after payment of the expenses of the sale, be applied by the receiver (*k*) in payment of the expenses, fees, and salvage (*o*), and, so far as not required for that purpose, shall be paid to the owners of the property, or any other persons entitled to receive the same.

554.—(1.) Where services for which salvage (*o*) is claimed

Agreement as

(*h*) This matter, under the Merchant Shipping Rules, 1894, § 1, is assigned to the Admiralty Division.

(*i*) Sub-s. 3.

(*k*) § 566.

(*l*) § 552, s. 2.

(*m*) In case where only small sums

are recovered, see § 549 s. (*b*.) as to Ireland; in England, if under £20 is recovered in the county court; County Courts Act, 1888, § 120.

(*n*) § 549.

(*o*) § 510; see §§ 544-546.

to salvage, are rendered either by the commander or crew or part of the crew of any of Her Majesty's ships (*p*) or of any other ship, and the salvor voluntarily agrees to abandon his lien upon the ship, cargo, and property alleged to be salvaged, then, upon the master (*q*) entering into a written agreement attested (*r*) by two witnesses to abide the decision of the High Court in England (*s*), or of a Vice-Admiralty Court or Colonial Court of Admiralty (*q*), and thereby giving security in that behalf to an amount agreed on by the parties to the agreement, that agreement shall bind the ship (*q*), and the cargo, and freight respectively, and the respective owners of the ship, cargo, and freight, and their respective heirs, executors, and administrators, for the salvage (*t*) which may be adjudged to be payable in respect of the ship, cargo, and freight respectively to the extent of the security given.

(2.) Any agreement made under this section may be adjudicated on and enforced in the same manner as a bond executed under the provisions of this Part of this Act relating to salvage by Her Majesty's ships (*u*), and on any such agreement being made the salvor and the master (*q*) shall respectively make the statements required by this Part of this Act (*x*) to be made in the case of the bond, but their statements need not be made on oath.

(3.) The salvor shall transmit the statements made, as soon as practicable to the court in which the agreement is to be adjudicated upon (*y*).

Apportionment
of salvage
under

555.—(1.) Where the aggregate amount of salvage (*t*) payable in respect of salvage services rendered in the

(*p*) Such ships are entitled to salvage, if the services rendered are beyond the scope of their public duty. *The Cargo ex Ulysses* (1888), 13 P. D. 205; cf. §§ 557-564. But the commander of a Queen's ship sent to render help to a wrecked ship cannot impose terms for her assistance and refuse to give it unless those terms are accepted. *Cargo ex Woosung* (1876), 1 P. D. 260. The term, "Her Majesty's ships," does

not include a lifeboat and tug used by the Board of Trade as a harbour authority. *The Cybele* (1878), 3 P. D. 8.

(*q*) Defined, § 742.

(*r*) § 694.

(*s*) Admiralty Division, Merchant Shipping Rules, 1894, § 1, App. II.

(*t*) § 510.

(*u*) § 561.

(*x*) § 558, a. 2.

(*y*) Sub-a. 1.

United Kingdom (z) has been finally determined, either summarily in manner provided by this Act (a) or by agreement, and does not exceed two hundred pounds (b), but a dispute arises as to the apportionment thereof among several claimants, the person liable to pay the amount may apply to the receiver (c) for liberty to pay the same to him; and the receiver shall, if he thinks fit, receive the same accordingly, and shall grant to the person paying the amount a certificate of the amount paid and of the services in respect of which it is paid, and that certificate shall be a full discharge and indemnity to the person by whom the money is paid, and to his vessel, cargo, apparel, and effects against the claims of all persons whomsoever in respect of the services mentioned in the certificate.

200l. by receiver.
1854, ss.
466, 467.

(2.) The receiver (c) shall with all convenient speed distribute any amount received by him under this section among the persons entitled to the same (d) on such evidence, and in such shares and proportions, as he thinks fit, and may retain any money which appears to him to be payable to any person who is absent.

(3.) A distribution made by a receiver (c) in pursuance of this section shall be final and conclusive as against all persons claiming to be entitled to any portion of the amount distributed.

556. Whenever the aggregate amount of salvage (c) payable in respect of salvage service rendered in the United Kingdom has been finally ascertained, and exceeds two hundred pounds (f), and whenever the aggregate amount of salvage (c) payable in respect to salvage services rendered elsewhere has been finally ascertained, whatever that amount may be, then, if any delay or dispute arises as to the apportionment thereof, any court having Admiralty jurisdiction may cause the same to be apportioned (d) amongst the persons entitled thereto in such manner as it thinks just, and may for that purpose, if it thinks fit, appoint

Apportionment of salvage by Admiralty courts.
1854, s.
498.

(z) Elsewhere, see § 556.

(a) § 548.

(b) If over that sum, see § 556.

(c) § 566.

(d) As to non-navigating part of

crew, e.g. stewards, see *The Spruce* (1893), F. 147.

(e) § 510.

(f) If under that sum, see § 555.

any person to carry that apportionment into effect, and may compel any person in whose hands or under whose control the amount may be to distribute the same, or to bring the same into court to be there dealt with as the court may direct, and may for the purposes aforesaid issue such processes as it thinks fit.

*Salvage
by Her
Majesty's
Ships.*

Salvage (f) by Her Majesty's Ships (g).

*Salvage
by Her
Majesty's
ships.
1854, ss.
184, 185.*

557.—(1.) Where salvage services are rendered by any ship belonging to Her Majesty or by the commander or crew thereof, no claim shall be allowed for any loss, damage, or risk caused to the ship or her stores, tackle, or furniture, or for the use of any stores or other articles belonging to Her Majesty, supplied in order to effect those services, or for any other expense or loss sustained by Her Majesty by reason of that service, and no claim for salvage (*f*) services by the commander or crew, or part of the crew of any of Her Majesty's ships shall be finally adjudicated upon, unless the consent of the Admiralty to the prosecution of that claim is proved.

(2.) Any document purporting to give the consent of the Admiralty for the purpose of this section, and to be signed by the Secretary to the Admiralty or on his behalf, shall be evidence of that consent.

(3.) If a claim is prosecuted and the consent is not proved, the claim shall stand dismissed with costs.

*Salvage
by Her
Majesty's
ships
abroad.
1854, s.
186.*

558.—(1.) Where services are rendered at any place out of the limits of the United Kingdom or the four seas adjoining thereto by (*h*) the commander or any of the crew of any of Her Majesty's ships, in saving any vessel (*i*) or cargo or property belonging to a vessel, the vessel (*i*), cargo, or property, alleged to be saved shall, if the salvator is justified by the circumstances of the case in detaining it, be taken to some port (*k*) where there is a consular

(*f*) § 510.

(*g*) See note (*p*), p. 428.

(*h*) The Atlantic, including the Irish Sea and St. George's Channel; the North Sea; the German Ocean;

and the English Channel.

(*i*) A wider term than "ship;" see § 742, and notes.

(*k*) Defined, § 742.

officer (*m*) or colonial court of admiralty (*n*), or a vice-admiralty court.

(2.) The salvor and the master (*n*), or other person in charge of the vessel, cargo, or property, saved shall within twenty-four hours after arriving at the port each deliver to the consular officer (*m*) or judge of the colonial court of admiralty (*n*) or vice-admiralty court, as the case may be, a statement on oath (*o*), specifying so far as possible, and so far as those particulars are applicable, the particulars set out in the first part of the Nineteenth Schedule to this Act, and also in the case of the master (*n*) or other person his willingness to execute a bond (*p*) in the form, so far as circumstances will permit, set out in the second part of that Schedule.

559.—(1.) The bond shall be in such sum as the consular officer (*m*) or judge thinks sufficient to answer the demand for salvage (*q*) service, but the sum fixed shall not exceed one half of the amount which, in the opinion of the consular officer (*m*) or judge, is the value of the property in respect of which salvage has been rendered.

Provisions
as to bond
to be
executed.
1854, ss.
487, 489.

(2.) Where the vessel (*r*), cargo, or property in respect of which salvage (*q*) services are rendered is not owned by persons domiciled in Her Majesty's dominions, the master (*n*) shall procure such security for the due performance of the bond as the consular officer (*m*) or judge thinks sufficient to be lodged with that officer or judge, or with that officer or judge and such other persons jointly as the salvor may appoint.

(3.) The consular officer (*m*) or judge shall fix the amount of the bond within four days after the receipt of the statements required by this Part of this Act (*s*), but if either of those statements is not delivered within the time required by this Part of this Act, he may proceed *ex parte*.

(4.) A consular officer (*m*) may for the purposes of this section take affidavits.

(*m*) Int. Act, 1889, § 12, s. 20.

(*n*) Defined, § 742.

(*o*) Exempt from stamp duty; § 563.

(*p*) § 559, s. 1.

(*q*) § 510.

(*r*) A wider term than "ship;" see § 742, and notes.

(*s*) § 558, s. 2.

(5.) Nothing in this section shall authorize the consular officer (*t*) or judge to require the cargo of any ship to be unladen.

Execution
of bond.
1854, ss.
488, 491.

560.—(1.) The consular officer (*t*) or judge on fixing the sum to be inserted in the bond (*u*) shall send notice thereof to the salvor and master (*x*), and on the execution of the bond by the master in the sum fixed in the presence of the consular officer or judge (who shall attest the same (*y*)), and upon delivery thereof to the salvor, and in cases where security is to be lodged, on that security being duly lodged, the right of the salvor to detain the vessel, cargo, or property shall cease.

(2.) The bond shall bind the respective owners of the vessel, cargo, and freight, and their heirs, executors, and administrators, for the salvage (*z*) adjudged to be payable in respect of the vessel, cargo, and freight respectively.

Enforcement
of bond.
1854, ss.
490, 492,
493.

561.—(1.) The bond shall be adjudicated on and enforced in the High Court in England (*a*), unless the salvor and master (*x*) agree at the time of the execution of the bond that the bond may be adjudicated on and enforced in any specified colonial court of admiralty (*x*) or vice-admiralty court, but that court shall in that case have the same power and authorities for the purpose as the High Court in England (*a*).

(2.) The High Court in England (*a*) shall have power to enforce any bond given in pursuance of this Part of this Act in any colonial court of admiralty (*x*) or vice-admiralty court in any part of Her Majesty's dominions, and any court exercising admiralty jurisdiction in Scotland, Ireland, the Isle of Man, or the Channel Islands shall assist that court in enforcing those bonds.

(3.) Where security has been given for the performance of a bond, the persons with whom the security is lodged shall deal with the same as the court adjudicating upon the bond direct.

(*t*) Int. Act, 1889, § 12, s. 20.

(*u*) § 559, s. 1.

(*x*) Defined, § 742.

(*y*) § 694.

(*z*) § 510.

(*a*) Admiralty Division (Merchant Shipping Rules, 1894, r. 1), App. II.

(4.) The consular officer (*b*) or judge shall at the earliest opportunity transmit the statements and documents delivered to him, and the notice of the sum fixed in the bond to the High Court in England (*c*) or the colonial court of admiralty (*d*) or vice-admiralty court in which the bond is to be enforced, as the case may be.

562.—(1.) Nothing contained in this Part of this Act shall prejudice the right of the salvor, where salvage services have been rendered by one of Her Majesty's ships, or by the commander or any of the crew thereof, to proceed for the enforcement of the salvage claim otherwise than in manner provided by this Act, but the salvor shall have no right to detain the vessel, cargo, or property saved, unless he elects to proceed under this Part of this Act. Saving for other salvage rights. 1854, s. 494.

(2.) Nothing contained in this Part of this Act shall affect the right of the salvor, where salvage services have been rendered by one of Her Majesty's ships or by the commander or any of the crew thereof, in any case which is not provided for therein (*f*).

563. Any bond, statement, agreement, or other document made or executed in pursuance of the provisions of this Part of this Act relating to salvage by Her Majesty's ships (*g*) shall, if made or executed out of the United Kingdom, be exempt from stamp duty. Exemption from stamp duty. 1854, s. 495.

564. If any person in any proceeding under the provisions of this Part of this Act relating to salvage by Her Majesty's ships (*g*)— Punishment for forgery and false representations. 1854, s. 496.

- (a.) forges, assists in forging, or procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any document; or
- (b.) puts off or makes use of any forged or altered document, knowing the same to be so forged or altered; or
- (c.) gives or makes, or assists in giving or making, or

(b) Int. Act, 1889, § 12, s. 20.

(c) Admiralty Division: (Merchant Shipping Rules, 1894, s. 1), App. II.

(d) Defined, § 742.

(e) § 510.

(f) But see § 557, s. 1.

(g) §§ 557-562.

procures to be given or made, any false evidence or representation, knowing the same to be false, that person shall for each offence be liable to imprisonment, with or without hard labour, for any period not exceeding two years, or, on summary conviction, to imprisonment, with or without hard labour, for any period not exceeding six months (*h*).

Jurisdiction of High Court in Salvage.

Jurisdiction of High Court in salvage. 1854, s. 476.

Jurisdiction of High Court in Salvage (i).

565. Subject to the provisions of this Act, the High Court (*i*), and in Scotland the Court of Session, shall have jurisdiction to decide upon all claims whatsoever relating to salvage (*k*), whether the services in respect of which salvage (*k*) is claimed were performed on the high seas or within the body of any county, or partly on the high seas and partly within the body of any county, and whether the wreck (*k*) in respect of which salvage (*k*) is claimed is found on the sea or on the land, or partly on the sea and partly on the land.

Appointment of Receivers of Wreck.

Appointment of receivers of wreck. 1854, ss. 2, 439.

Appointment of Receivers of Wreck.

566. The Board of Trade shall have the general superintendence throughout the United Kingdom of all matters relating to wreck (*k*), and may, with the consent of the Treasury, appoint any officer of customs or of the coast-guard, or any officer of inland revenue, or, where it appears to such Board to be more convenient, any other person, to be a receiver of wreck (in this Part of this Act referred to as a receiver), in any district, and to perform the duties of receiver under this Part of this Act, and shall give due notice of the appointment.

Fees of Receivers of Wreck.

Receivers' fees. 1854, ss. 455-457.

Fees of Receivers of Wreck.

567.—(1.) There shall be paid to every receiver the expenses properly incurred by him in the performance of

(*h*) Procedure, §§ 680-684; fines how applicable, §§ 699, 716.
(*i*) The Admiralty Division; by

Merchant Shipping Rules, 1894, s. 1. See Appendix II.
(*k*) § 510.

his duties, and also, in respect of the several matters specified in the Twentieth Schedule to this Act, such fees not exceeding the amounts therein mentioned as may be directed by the Board of Trade, but a receiver shall not be entitled to any remuneration other than those payments.

(2.) The receiver shall, in addition to all other rights and remedies for the recovery of those expenses or fees, have the same rights and remedies in respect thereof as a salvor has in respect of salvage due to him (l).

(3.) Whenever any dispute arises in any part of the United Kingdom as to the amount payable to any receiver in respect of expenses or fees, that dispute shall be determined by the Board of Trade, and the decision of that Board shall be final.

(4.) All fees received by a receiver in respect of any services performed by him as receiver shall be carried to and form part of the Mercantile Marine Fund (m), but a separate account shall be kept of those fees, and the moneys arising from them shall be applied in defraying any expenses duly incurred in carrying into effect this Act in such manner as the Board of Trade direct.

568.—(1.) Where services are rendered by any officers or men of the coastguard service in watching or protecting shipwrecked property, then, unless it can be shown that those services have been declined by the owner of the property or his agent at the time they were tendered, or that salvage (n) has been claimed and awarded for those services, the owner of the property shall pay in respect of those services remuneration according to a scale to be fixed by the Board of Trade; and that remuneration shall be recoverable by the same means, and shall be paid to the same persons, and accounted for and applied in the same manner as fees received by receivers under the provisions of this Part of this Act. (o)

(2.) The scale fixed by the Board of Trade shall not exceed the scale by which remuneration to officers and

(l) §§ 547, 548, 552.

(m) § 676, s. 1 (h.).

(n) § 510.

(o) § 567.

Remuneration for services by coast-guard.
18 & 19
Vict. c. 91,
s. 20.

men of the coastguard for extra duties in the ordinary service of the Commissioners of Customs is for the time being regulated.

*Duties on
Wreck.*

Duties on Wreck (o).

Provisions
as to
duties,
&c., on
wrecked
goods.
1854, ss.
499, 500.

569.—(1.) All wreck, being foreign goods brought or coming into the United Kingdom or Isle of Man, shall be subject to the same duties as if the same was imported into the United Kingdom or Isle of Man respectively, and if any question arises as to the origin of the goods, they shall be deemed to be the produce of such country as the Commissioners of Customs may on investigation determine.

(2.) The Commissioners of Customs and Inland Revenue shall permit all goods, wares, and merchandise saved from any ship stranded or wrecked on her homeward voyage to be forwarded to the port (*p*) of her original destination, and all goods, wares, and merchandise saved from any ship stranded or wrecked on her outward voyage to be returned to the port (*p*) at which the same were shipped; but those Commissioners shall take security for the due protection of the revenue in respect of those goods.

Supplemental.

Powers of
sheriff in
Scotland
1854, s.
501.

570. Any matter or thing which may be done under this Part of this Act by or to a justice of the peace, or a court of summary jurisdiction (*r*), may in Scotland be done by or to the sheriff of the county.

Saving for
Cinque
Ports.
1854, s.
460.

571. Nothing in this Part of this Act shall prejudice or affect any jurisdiction or powers of the Lord Warden or any officers of the Cinque ports or of any court of those ports or of any court having concurrent jurisdiction within the boundaries of these ports, and disputes as to salvage (*o*) arising within those boundaries shall be determined in the manner in which they have been hitherto determined (*s*).

(*o*) § 510.

(*p*) Defined, § 742.

(*q*) § 567, s. 2

(*r*) Int. Act, 1889, § 13, s. 12.

(*s*) 1 & 2 Geo. IV. c. 76; of *The Maria Luisa* (1856), Swabey, 67; *The Jeune Paul* (1867), L. R. 1 A. & E. 336.

PART X.

1854 = 17 & 18 Vict. c. 104.

1862 = 25 & 26 Vict. c. 63.

Int. Act, 1889 = Interpretation Act, 1889 (52 & 53 Vict. c. 63).

Marginal references are to the sections reproduced.

PRELIMINARY NOTE TO PART X.

PILOTAGE.

THE all-important question under this Part of the Act is whether a shipowner is, in the case of any particular port, exempted from his liability for damage done by his ship, because she was in charge of a pilot whose employment was by law compulsory on him. The law on this matter was, before this Act, in an exceedingly obscure and unsatisfactory state, and its consolidation in this Part has done nothing to diminish, but has rather increased, the obscurity.

It is beyond the scope of this work to deal in detail with the various pilotage authorities of the United Kingdom. A detailed list, with references, will be found in Marsden on Collisions, 3rd edit., pp. 264-279; Newson on Salvage, Tonnage, and Pilotage, ch. xix.; and in Annual Pilotage Returns, 1892 (a). A list of the principal ports of the United Kingdom, with cases relating to them, will be

(a) Parl. Papers (1893, 63).

found in the Appendix No. 10. It is proposed in this note to deal with the principles, if they can be so called, by which the question whether pilotage is compulsory is to be settled.

I. (1.) Under §§ 618-622 pilotage is compulsory :—

(a.) In the London district of the Trinity House, which extends over the Thames and Medway and the sea from Orfordness in Suffolk to Dungeness in Kent.

(b.) In the Trinity House outport districts, being pilotage districts for the appointment of pilots within which no particular provision is made by any Act of Parliament or charter.

All such outport districts will be found in the list in the Appendix No. 11. To justify the position of any district in such list, evidence that the Trinity House were accustomed to license pilots therein before 1854, and, *semble*, before this Act, will be *primâ facie* proof that the district is a Trinity House outport district (a). It may, however, be necessary to investigate whether any provision has been made by Act of Parliament or charter for the appointment of pilots, which must turn in each case on the particular local Acts and charters.

(2.) If pilotage is compulsory under these sections in the district where the collision happened, the particular ship may be exempt :—

(a.) Under § 605, as merely passing through the district without loading or discharging therein.

(b.) Under the specific exemptions contained in § 625 of the Act, as explained in the notes thereto. These exemptions will not apply if the ship is carrying passengers (b).

(a) *The Juno* (1875), 1 P. D. 135.

(b) See wording of § 625; cf. § 604, and *The Hankow* (1879), 4 P. D. 197, where a steamship registered

in the port of London, and on a voyage from Australia to London, carrying passengers, was held obliged to carry a pilot in the port of London.

(c.) Under the exemptions which were in force before the Act of 1854 came into force, continued by the joint operation of § 353 of the Act of 1854 and § 603 of this Act, as explained in head II. below. These exemptions may be overridden by the express provision of § 604 of this Act, making pilotage compulsory on certain vessels carrying passengers (see head III. below). These exemptions as derived from the general law will be found in the Pilotage Act of 1825 (6 Geo. IV. c. 125, §§ 59-63, 71), the material provisions of which are set out in the note to § 603 of this Act (e).

(d.) The Board of Trade may, by provisional order under § 578, have exempted the ship in question from compulsory pilotage (d).

(e.) Byelaws made by the Trinity House under § 581 may exempt the ship in question from compulsory pilotage (e).

II. Outside the Trinity House districts, as defined in head I. above:—

(1.) Section 603 of this Act, together with § 353 of the Act of 1854, continues compulsory pilotage in cases where it was compulsory before the passing of the Act of 1854 (f).

(a.) The general law will be found in the Pilotage Act of 1825 (6 Geo. IV. c. 125).

(b.) There are, in addition, private Acts, such as the Act for the Bristol Channel (g), and for Hull (h), and charters, such as those incorporating the Hull Trinity House (i) and the Newcastle Trinity House.

(c) These exemptions were considered, in the case, amongst others, of *The Hanko* (1879), 4 P. D. 197.

(d) It is believed that at present the only exemptions under this head are (1) in the case of Bristol, outside the port of Bristol, and (2) Swansea. See note to § 578.

(e) It is believed that none such have at present been made.

(f) This also applies to the Trinity House districts. Cf. the reasoning in *The Earl of Auckland* (1860), Lush. 164, 387; following *Reg. v. Stanton* (1857), 8 E. & B. 445.

(g) 47 Geo. III. sess. 2, c. 33, L. & P.

(h) 2 & 3 Will. IV. c. 105, Local.

(i) Cf. *The Killarney* (1862), Lush. 427.

(2.) Compulsion so founded may be displaced:—

(c.) If the exemptions existing before the passing of the Act of 1854, which are kept alive by the joint operation of § 603 of this Act and § 353 of the Act of 1854, apply (*k*). These exemptions as to the general law are to be found in the Act of 1825 already cited, and in any then existing local Acts, byelaws, or charters. *Semble*, ships exempt before the Act of 1854 cannot be compelled to take pilots by byelaws or Orders in Council made since that Act (*k*).

(d.) The Board of Trade may, by provisional order under § 578, have exempted the ship in question from compulsory pilotage (*l*).

(e.) Byelaws made by a pilotage authority under § 581 may exempt the ship in question from compulsory pilotage.

III. Ships carrying passengers between places in the British Islands must carry pilots under § 604 of the Act. This section overrides any exemptions continued by § 603 (*m*); it does not clash with the exemptions in § 625, which only apply when the vessel is not carrying passengers.

The state of the law I have endeavoured to set out above appears a disgrace to any civilized system of jurisprudence, and this Act has made it worse. Whilst in appearance it re-enacts § 353 of the Act of 1854 as § 603 of this Act, in reality it has added a new link to the complicated chain. The state of things existing before the passing of this Act is to be found by the investigation of the Act of 1854 and the various public and private Acts and regulations affecting it; but the Act of 1854, in turn, sends us back to the state of things existing before it was passed, resting in the main on an Act of 1825.

(*k*) Cf. *The Earl of Auckland* (1860), Lush, 164, 387.

(*l*) See note (*d*), *supra*.

(*m*) *The Temora* (1860), Lush. 17.

PART X.

ARRANGEMENT OF SECTIONS.

PILOTAGE.

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- 573. Pilotage authority (p. 444).
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1854 = 17 & 18 Vict. c. 104.

1862 = 25 & 26 Vict. c. 63.

Int. Act, 1889 = Interpretation Act, 1889 (52 & 53 Vict. c. 63).

Marginal references are to the sections reproduced.

PART X.

PILOTAGE.

Preliminary.

Preliminary.

Powers of Board of Trade as to Pilotage Districts and Authorities.

Application of Part X. Pilotage authority. 1854, s. 2.

Continuance of existing authorities. 1854, s. 331.

572 (a). This Part of this Act extends to the United Kingdom and the Isle of Man only, but applies to all ships (b) British (c) and foreign.

573. In this Act the expression "pilotage authority" includes all bodies and persons authorized to appoint or license pilots (b) or to fix or alter rates of pilotage or to exercise any jurisdiction in respect of pilotage (d).

574. Every pilotage authority (e) shall retain all powers and jurisdiction which they now lawfully possess, so far as the same are consistent with the provisions of this Act; but no law relating to that authority (e), or to the pilots (b) licensed by them, and no act done by that authority (e), shall, if inconsistent with any provision of this Act, be of any force whatever.

(a) Incorporates 1854, s. 330; 35 & 36 Vict. c. 23, s. 12; 52 & 53 Vict. c. 68, s. 1.

(b) Defined, § 742.

(c) Note to § 1.

(d) This does not include sub-commissioners appointed by the Trinity House; § 617, s. 2.

(e) Defined, § 573.

*Powers of Board of Trade as to Pilotage Districts
and Authorities.*

575.—(1.) The Board of Trade may by provisional order—

- (a.) in any area where there is no pilotage authority (e), constitute new pilotage authorities (e) and districts; and
- (b.) extend the limits of any pilotage district (f) by including therein any area in which there is no pilotage authority (e).

Constitution of new pilotage authorities. 1862, s. 39. 52 & 53 Vict. c. 68, s. 2.

(2.) There shall be no compulsory pilotage (g) and no restriction on the power of duly qualified persons to obtain licences as pilots (e) in any new pilotage district constituted under this section (h), or in any area included in a pilotage district under this section (i).

576.—(1.) Whenever any pilotage authority (e) residing or having their place of business at one port (e) have or exercise jurisdiction in matters of pilotage in any other port (e), the Board of Trade may by provisional order (k)—

Transfer of pilotage jurisdiction. 1862, s. 39.

- (a.) transfer so much of the jurisdiction as concerns the last-mentioned port (e), either to any harbour authority (e) or other body exercising any local jurisdiction in maritime matters at that port, or to any body to be constituted for the purpose by the provisional order (k), or (where the said pilotage authority (e) is not the Trinity House) to the Trinity House (e); or
- (b.) transfer the whole or any part of the jurisdiction of the said pilotage authority (e) to a new body to be constituted for the purpose by the provisional order (k), so as to represent the interests of the several ports concerned.

(2.) For the purpose of any transfer under this section, the Board of Trade may by provisional order (l)—

(e) Defined, § 742.
(f) This does not apply to a district under the authority of the sub-commissioners appointed by the Trinity House; § 617, s. 2.

(g) See §§ 603, 622.
(h) Sub-s. 1 (a.).
(i) Sub-s. 1 (b.).
(k) § 580 provides for making and confirmation of provisional orders.

- (a) incorporate the body to whom the transfer is made if it is a new body;
- (b.) make the body to whom the transfer is made a pilotage authority (*m*), with such powers as may be mentioned in the provisional order (*n*);
- (c.) determine the limits of the district of the pilotage authority (*m*) to whom the transfer is made;
- (d.) sanction a scale of pilotage rates to be taken by the pilots (*p*) licensed by that authority (*m*);
- (e.) determine to what extent and under what conditions any pilots (*o*) then already licensed by the pilotage authority (*m*) from whom the transfer is made are to continue to act under the pilotage authority (*m*) to whom the transfer is made;
- (f.) sanction arrangements for the apportionment of any pilotage funds belonging to the pilots (*o*) licensed by the pilotage authority (*m*) from whom the transfer is made, between the pilots (*o*) remaining under the jurisdiction of that authority (*m*), and the pilots (*o*) who are transferred to the jurisdiction of the authority (*m*) to whom the transfer is made;
- (g.) provide for such compensation or superannuation as may be just to officers employed by the pilotage authority (*m*) from whom the transfer is made, and not continued by the pilotage authority (*m*) to whom the transfer is made.

Direct representation of pilots, &c., on pilotage authority. 52 & 53 Vict. c. 68, s. 2.

577. The Board of Trade may by provisional order (*n*) make provision or further provision for the direct representation of pilots (*o*), and, if it seems expedient, also of shipowners, on the pilotage authority (*m*) of any district, or if there is a pilotage committee of that authority, or any body of commissioners or sub-commissioners appointed by that authority, then on that committee or body.

Exemption from compulsory pilotage. 1862, s. 39.

578. The Board of Trade may by provisional order (*n*) exempt (*p*) the masters (*o*) and owners of all ships (*p*), or

(*m*) Defined, § 573.

(*n*) § 580 provides for making and confirmation of provisional orders.

(*o*) Defined, § 742.

(*p*) As to compulsory pilotage, see §§ 603, 622.

of any classes of ships, from being obliged to employ pilots (*q*) in any pilotage district or in any part of any pilotage district, or from being obliged to pay for pilots (*q*) when not employing them in any district or in any part of any pilotage district, and annex any terms and conditions to those exemptions (*r*).

579.—(1.) Where the pilotage is not compulsory (*s*), and there is no restriction on the power of duly qualified persons to obtain licences as pilots (*q*), the Board may by provisional order (*t*) give any pilotage authority (*u*) power to license pilots (*q*), and to fix pilotage rates for their district or any part of their district for which no such licences or rates for the time being exist, and to raise all or any of the pilotage rates in force in their district or any part of their district; and, where there is also no restriction on the number of pilots (*q*), to give additional facilities for the recovery of pilotage rates, and for preventing the employment of unqualified (*x*) pilots (*q*).

Power of Board of Trade to give facilities with respect to licences, rates, &c. 1862, s. 39.

(2.) The Board of Trade may by provisional order (*t*) give facilities for enabling duly qualified persons, after examination as to their qualifications, to obtain licences as pilots (*q*).

580.—(1.) The Board of Trade may make a provisional order (*t*) under this Part of this Act on the application in writing of some person interested in the pilotage of the district or in the operation of the laws or regulations relating to that pilotage.

Making and confirming provisional orders. 1862, s. 40.

(2.) Notice of the application having been made shall be published once at least in each of two successive weeks in the month (*y*) immediately succeeding the date of the application in the Shipping Gazette, and in some newspaper or newspapers circulating in the county, or, if there are more than one county, in the counties adjacent to the pilotage district to which the application relates.

(*q*) Defined, § 742.

§§ 603, 622.

(*r*) The only provisional orders made under this section exempting from compulsory pilotage are 54 & 55 Vict. c. clx. (Bristol Channel), and 55 & 56 Vict. c. xxxi. (Swansea).

(*t*) § 580 provides for making and confirmation of provisional orders.

(*u*) Defined, § 573.

(*x*) Cf. § 586.

(*y*) Int. Act, 1889, § 3.

(*s*) As to compulsory pilotage, see

(3.) The notice shall state the objects which it is proposed to effect by the provisional order (z).

(4.) The Board of Trade on receiving the application shall refer the same to the pilotage authority (a) or authorities of the district, and shall receive and consider any objections which may be made to the proposed provisional order, and shall for that purpose allow at least six weeks to elapse between the date on which the application is referred to the pilotage authority (a) and that on which the provisional order is made.

(5.) The Board of Trade shall, after considering all objections, determine whether to proceed with the provisional order or not; and shall, if they determine to proceed with the order, settle the order in such manner and with such terms and conditions, not being inconsistent with the provisions of this Act, as they may think fit; and shall, when they have settled the order, forward copies thereof to the persons making the application and to the pilotage authority (a) of any district to which it refers.

(6.) A provisional order under this Part of this Act shall not take effect unless and until it is confirmed by Parliament; and for the purpose of that confirmation the Board of Trade shall introduce into Parliament a public general Bill in which, or in the schedule to which, the provisional order or provisional orders to be thereby confirmed shall be set out at length.

(7.) If any petition is presented to either House of Parliament against any such provisional order in the progress through Parliament of the Bill confirming the same, so much of the Bill as relates to the order petitioned against may be referred to a select committee, and the petitioner shall in that case be allowed to appear and oppose as in the case of private Bills.

(z) §§ 576-579.

(a) Defined, § 573.

Byelaws by Pilotage Authorities (b).

*Byelaws by
Pilotage
Authorities.*

581. Every pilotage authority (b) may, by byelaw (c) made under this Part of this Act, exempt the masters (d) of any ships (d) or of any classes of ships from being compelled to employ qualified pilots (e), and annex any terms and conditions to those exemptions, and revise or extend any such exemptions or any exemptions existing by virtue of any Act of Parliament, law, charter, or usage, upon such terms and conditions and in such manner as may appear desirable to the authority.

Power of
pilotage
authorities
as to ex-
emptions
from com-
pulsory
pilotage.
1854, s.
332.

582. Subject to the provisions of this Part of this Act, a pilotage authority may by byelaw (c) made under this Part of this Act :—

Power of
pilotage
authorities
to make
byelaws.
1854, s.
333.
35 & 36
Vict. c. 73,
s. 11.
52 & 53
Vict. c. 68,
s. 7.

- (1.) determine the qualification in respect of age, time of service, skill, character, and otherwise, to be required from persons applying to be licensed as pilots (d) :
- (2.) make regulations respecting the approval and licensing of pilot boats in their district (f) :
- (3.) provide for the establishment and regulation of companies for the support of those pilot boats (f) and for a participation of profits therein :
- (4.) fix the terms and conditions of granting licences to pilots (d) and apprentices and pilotage certificates for masters and mates (g) :
- (5.) make regulations for the government of the pilots (d) and apprentices licensed by them, and of masters (d) and mates holding pilotage certificates granted by them (g), and for ensuring their good conduct and constant attendance to, and effectual performance of, their duty whether at sea or on shore, and provide for the punishment of any breach of those regulations by the withdrawal or suspension (h) of the licence or

(b) Defined, § 573.

(c) As to powers to rescind or vary byelaws, see Int. Act, 1883, § 32, s. 3. All such byelaws must, after publication as prescribed, be confirmed by the Queen in Council; § 583.

(d) Defined, § 742.

(e) § 586.

(f) § 611.

(g) §§ 599–602.

(h) Appeal from decision of pilotage authority; see § 609.

certificate of the person guilty of that breach, or by the infliction of fines (i) not exceeding twenty pounds, to be recoverable as fines are recoverable under this Act (k):

- (6.) fix the rates and prices or other remuneration to be demanded and received for the time being by the pilots (l) licensed by them, and alter the mode of remuneration of those pilots in such manner as they think fit, so, however, that no higher rates or prices are demanded or received in the case of the Trinity House (l) than those set out in the table contained in the Twenty-first Schedule to this Act, and in the case of any other pilotage authority (m) than those which might have been lawfully fixed or demanded by that authority under any Act, charter, or custom in force immediately before the first day of May in the year one thousand eight hundred and fifty-five (n):
- (7.) make such arrangements with any other pilotage authority (m) for altering the limits of their respective districts, and for extending the powers of that other authority or the privileges of the pilots (l) licensed by that other authority or any of them to all or any part of its own district, or for limiting its own powers or the privileges of its own pilots (l) or any of them, or for sharing the said last-mentioned powers and privileges with that other authority and the pilots licensed by it, or for delegating or surrendering those powers and privileges or any of them to any other pilotage authority (m) already constituted or to be constituted by agreement between those authorities, and to the pilots (l) licensed by it, as may appear to those pilotage authorities (m) to be desirable for the purpose of facilitating navigation or of reducing charges on shipping:
- (8.) establish, either alone or in conjunction with any other pilotage authority (m) or authorities, funds for

(i) Appeal from decision of pilotage authority; see § 609.

(k) Procedure, §§ 680-684; fines, how applicable, §§ 699, 716.

(l) Defined, § 742.

(m) Defined, § 573.

(n) The day when the Act of 1854 came into operation.

the relief of superannuated or infirm qualified pilots (*o*), or of their wives, widows, or children ; and make any new regulations with respect to any funds for the time being applicable to those purposes or any of them, with power to determine the amount, manner, time, and persons (those persons to be in the service of the pilotage authority (*p*)) to and in which and by and upon whom the contributions in support of those existing or future funds may be made or levied, and declare what persons or class of persons (the person or class of persons being limited to the men in the service of the pilotage authority (*p*), their wives, widows, or children) are entitled to participate in the benefits of any existing or future funds, and the terms and conditions upon which, if entitled, they are to be so entitled (*q*):

(9.) require masters (*r*) and mates who hold pilotage certificates granted by them or by the Board of Trade under this Part of this Act (*s*) to contribute towards the pilotage fund of the district, and to make a periodical return to them of the pilotage services rendered by them ; provided that the contribution so required from a master (*r*) or mate shall not exceed such proportion of the pilotage dues which would have been payable in respect of his ship if he had not held a pilotage certificate, as may be fixed by the Board of Trade :

(10.) provide for the granting by them of special licences qualifying the persons to whom those licences are granted to act as pilots (*r*) for any part of the sea or channels beyond the limits of their pilotage district, so, however, that no pilot so licensed be entitled to supersede an unlicensed pilot (*t*) outside the district of the authority (*p*) by which he is licensed.

583.—(1.) A byelaw under this Part of this Act (*u*) shall not take effect until it is submitted to Her Majesty in Council and confirmed by Order in Council (*x*). Confirmation of byelaws. 1854, ss. 332, 334. 35 & 36 Vict. c. 73, s. 11.

(*o*) § 586.

(*p*) Defined, § 573.

(*q*) Appeal from decision of pilotage authority as to funds ; see § 609.

(*r*) Defined, § 742.

(*s*) §§ 599–602.

(*t*) § 597.

(*u*) §§ 581, 582.

(*x*) § 738.

(2.) Any byelaw proposed to be made under this Part of this Act (y) shall, before it is submitted for confirmation (z), be published in such manner as the Board of Trade direct.

Appeal
against
byelaws or
regulations not
made
under this
Act.
1854, s.
336.

584. If at any port (a) either—

- (a.) the majority of the qualified pilots (b) belonging to the port (a); or,
- (b.) the local marine board (c); or,
- (c.) where there is no local marine board (c), any number of persons not less than six, being masters (a), owners, or insurers of ships,

consider themselves aggrieved by any regulation or byelaw of a pilotage authority (d) in force before the first day of May, one thousand eight hundred and fifty-five (e), or made under any power other than a power contained in this Act or in any Act repealed by this Act, or by a defect or omission in any such regulation or byelaw, they may appeal to the Board of Trade, and the Board may thereupon by order revoke, alter, or make additions to that regulation or byelaw, in such manner as, having regard to the interests of the persons concerned, appears to them to be just and expedient, and any order so made shall be conclusive as to the matter in respect of which it is made.

Returns by Pilotage Authorities (d).

Returns
by Pilotage
Authorities.

Returns
by pilotage
authorities
to Board
of Trade.
1854, ss.
337-339.
52 & 53
Vict. c. 68,
s. 6.

585.—(1.) Every pilotage authority (d) shall deliver periodically to the Board of Trade, in the form and at the time required by that Board, returns of the following particulars with regard to pilotage within their district:—

- (a.) all byelaws or other regulations whether made under this Act (y) or not relating to pilots (a) or pilotage for the time being in force :
- (b.) the names and ages of all pilots (a) or apprentices licensed or authorized to act by the authority (d) making the return, and of all pilots or apprentices

(y) §§ 580, 581.

(z) Sub-s. 1.

(a) Defined, § 742.

(b) § 586.

(c) § 244.

(d) Defined, § 573.

(e) Being the day when the Act of 1854 came into operation.

acting either directly or indirectly under that authority (*f*), whether so licensed or authorized or not :
(*c.*) the service for which each pilot (*g*) or apprentice is licensed :

(*d.*) the rates of pilotage for the time being in force including therein the rates and descriptions of all charges upon shipping made for or in respect of pilots (*g*) or pilotage :

(*e.*) the total amount received for pilotage, distinguishing the several amounts received from British ships (*h*) and from foreign ships respectively, and the several amounts received in respect of different classes of ships (*g*) paying different rates of pilotage, according to the scale of those rates for the time being in force, and the several amounts received for the several classes of service rendered by pilots (*g*); and also the amount paid by such ships (*g*) (if any) as have, before reaching the outer limits of pilotage water if outward bound, or their port (*g*) of destination if inward bound, to take or pay for two or more pilots (*g*), whether licensed by the same or by different pilotage authorities (*f*); together with the numbers of the ships of each of the several classes paying such several amounts as aforesaid :

(*f.*) the receipt and expenditure of all moneys received by or on behalf of the authority making the return, or by or on behalf of any sub-commissioners appointed by them (*i*), in respect of pilots (*g*) or pilotage :

(*g.*) the receipts and expenditure, under separate accounts, in respect of any pension or superannuation funds (*k*) administered by or under the control of the authority making the return.

(2.) Every pilotage authority (*f*) shall allow the Board of Trade, or any person appointed by the Board of Trade for the purpose, to inspect any books or documents in the possession of that authority relating to any matter in respect of which a return is required under this section.

(*f*) Defined, § 573.

(*i*) Cf. §§ 617, 632.

(*g*) Defined, § 742.

(*k*) § 582, s. 8.

(*h*) Notes to § 1.

(3.) The Board shall cause any returns made to them under this section to be laid before both Houses of Parliament without delay (*l*).

(4.) If any pilotage authority (*m*) (other than the Trinity House (*n*), or sub-commissioners of pilotage appointed by them under this Part of this Act (*o*)) fail (*p*), without reasonable cause, to deliver to the Board of Trade any return required under this section within one year after the time fixed by the Board of Trade for the purpose, or fail (*p*) without reasonable cause to comply with the requirements of this section with regard to the inspection of books and documents (*q*), Her Majesty may, by Order in Council (*r*), direct that all the rights and powers of that authority (*m*) in respect of pilotage shall cease or be suspended during such time as Her Majesty directs, and thereupon the Trinity House (*n*) shall thereafter, or during the time for which the suspension continues, have the same powers of appointing sub-commissioners of pilotage (*o*), and of licensing (*s*) pilots (*n*), and of establishing and altering rates of pilotage (*t*) within the district of the authority making default, as the Trinity House are by this Act authorized to exercise in a district within which no particular provision for the appointment of pilots (*n*) is made by any Act of Parliament or charter (*s*), and shall also during that time have the same rights, title, and powers to and in respect of any pilotage funds or other pilotage property which the pilotage authority making default would or might have had if the rights and powers of that authority had not ceased or been suspended.

*Licensing
of Pilots.*

Registration
of
pilot
licences.
1854, ss.
2, 349.

Licensing of Pilots (n).

586.—(1.) A pilot (*n*) shall be deemed a qualified pilot for the purposes of this Act, if duly licensed by any pilotage

(*l*) See Pilotage Returns for 1892; analyzed in Appendix X.

(*m*) Defined, § 578.

(*n*) Defined, § 742.

(*o*) § 617.

(*p*) Includes refusal; § 742.

(*q*) Sub-s. 2.

(*r*) § 738.

(*s*) § 618, s. 1 (iii.).

(*t*) § 626.

authority (*t*) to conduct ships (*u*) to which he does not belong.

(2.) Every qualified pilot (*x*), on his appointment, shall receive a licence containing his name and usual place of abode, a description of his person, and a specification of the limits within which he is qualified to act.

(3.) The chief officer of customs (*u*) at the place at or nearest to which any qualified pilot (*x*) resides shall, on his request, register his licence, and a qualified pilot (*x*) shall not be entitled to act as such, until his licence is so registered.

(4.) Every qualified pilot (*x*) acting beyond the limits for which he is qualified by his licence (*y*) shall be considered an unqualified pilot.

587. Every qualified pilot (*x*), shall on receiving his licence, be furnished with a copy of this Part of the Act, and with a copy of the rates (*a*), byelaws, and regulations established within the district for which he is licensed; and he shall produce those copies to the master (*u*) of any ship (*u*), or other person employing him, when required to do so, and if he fails (*a*) without reasonable cause to do so, shall be liable to a fine not exceeding five pounds (*b*).

Copies of pilotage provisions to be furnished to pilot. 1854, s. 850.

588.—(1.) Every qualified pilot (*x*) when acting in that capacity shall be provided with his licence (*y*) and shall produce the same to every person by whom he is employed or to whom he offers his services as pilot (*u*).

Licensed pilot to produce licence to employer. 1854, s. 351.

(2.) If a qualified pilot (*x*) refuses, on the request of any such person, to produce his licence (*y*), he shall for each offence be liable to a fine not exceeding ten pounds (*b*), and shall be subject to suspension or dismissal by the pilotage authority (*t*) by whom he is licensed (*x*).

(*t*) Defined, § 573.

(*u*) Defined, § 742.

(*x*) § 586, s. 1. He may be qualified only for certain classes of ships; cf. *Stafford v. Dyer* (1895), 1 Q. B. 566.

(*y*) § 586, s. 2.

(*z*) § 626.

(*a*) Includes refusal; § 742.

(*b*) Procedure, §§ 680-684; application of fine, §§ 699, 716.

Production and return of licence to pilotage authority. 1854, s. 352.

589.—(1.) Every qualified pilot (*c*), when required to do so by the pilotage authority (*d*) by whom he is licensed (*c*), shall produce or deliver up his licence to that authority (*e*).

(2.) On the death of any qualified pilot (*c*), the person into whose hands his licence (*f*) comes shall without delay transmit it to the pilotage authority (*d*) who licensed (*c*) the deceased pilot.

(3.) If any pilot (*g*) or other person fails (*h*) to comply with the requirements of this section, he shall for each offence be liable to a fine not exceeding ten pounds (*i*).

Penalty on fraudulent use of licence. 1854, s. 361.

590. If an unqualified pilot (*g*) for the purpose of making himself appear to be a qualified pilot (*c*) uses a licence (*f*) which he is not entitled to use, he shall for each offence be liable to a fine not exceeding fifty pounds (*i*).

Recovery of Pilotage and other Rights of Pilots.

Recovery of pilotage dues. 1854, ss. 363, 364.

Recovery of Pilotage Dues and other Rights of Pilots (g).

591.—(1.) The following persons shall be liable to pay pilotage dues for any ship (*g*) for which the services of a qualified pilot (*c*) are obtained, namely:—

(a.) the owner (*k*) or master (*g*):

(b.) as to pilotage inwards, such consignees or agents as have paid or made themselves liable to pay any other charge on account of the ship in the port (*g*) of her arrival or discharge:

(c.) as to pilotage outwards, such consignees or agents as have paid or made themselves liable to pay any other charge on account of the ship in the port (*g*) from which she clears out (*l*);

and those dues may be recovered in the same manner as fines of like amount under this Act (*m*), but that recovery shall not take place until a previous demand has been made in writing.

(c) § 586, s. 1.

(d) Defined, § 573.

(e) The fact that the authority acts capriciously in making the requisition is no excuse for not delivering. *Henry v. Newcastle Trinity House* (1858), 8 E. & B. 723.

(f) § 586, s. 2.

(g) D. fined, § 742.

(h) Includes refusal; § 742.

(i) Procedure, §§ 680-684; application of fine, §§ 699, 716.

(k) Notes to § 58.

(l) Customs Consol. Act, 1876 (39 & 40 Vict. c. 35, § 1).

(m) §§ 680-683.

(2.) Any consignee or agent (not being the owner (*n*) or master (*o*) of the ship) who is hereby made liable for the payment of pilotage dues in respect of any ship may, out of any moneys received by him on account of that ship or belonging to the owner (*n*) thereof, retain the amount of all dues paid by him, together with any reasonable expenses he may have incurred by reason of the payment of the dues or his liability to pay the dues.

592. A qualified pilot (*p*) shall not demand or receive, and a master (*o*) shall not offer or pay to any pilot (*o*), any other rate in respect of pilotage services (*q*), whether greater or less (*r*), than the rate which may be demanded by law, and, if a pilot (*o*) or master (*o*) acts in contravention of this enactment, he shall for each offence be liable to a fine not exceeding ten pounds (*s*). Receiving or offering improper rates of pilotage. 1854, s. 358.

593. If any boat or ship (*o*) having on board a qualified pilot (*p*) leads any ship (*o*) which has not a qualified pilot (*p*) on board when the last-mentioned ship cannot from particular circumstances be boarded, the pilot so leading the last-mentioned ship shall be entitled to the full pilotage rate for the distance run as if he had actually been on board and had charge of that ship (*t*). Pilotage rate for leading ships. 1854, s. 356.

594.—(1.) A pilot (*o*), except under circumstances of unavoidable necessity, shall not, without his consent, be taken to sea or beyond the limits (*u*) for which he is licensed in any ship whatever, and if he is so taken under circumstances of unavoidable necessity, or without his consent, Allowance to licensed pilot taken out of his district. 1854, s. 357.

(*n*) Note to § 58.

(*o*) Defined, § 742.

(*p*) § 586, s. 1.

(*q*) For salvage services, or special pilotage services, as towing, more than the rate can be demanded. Cf. *The Enterprise* (1828), 2 Hagg. 178, n.; *The General Palmer* (1828), 2 Hagg. 176. Not if the services are within the pilot's ordinary employment. *The Æolus* (1873), L. R. 4 A. & E. 29; *The Funchai* (1837), 3 Hagg. 386, n.; *Jonge Andries* (1857), 11 Moore P. C. 313.

(*r*) The Trinity House may by byelaw allow less than the rate to be demanded or offered; § 626, s. 2.

(*s*) Procedure, §§ 680-681; application of fine, §§ 699, 716.

(*t*) He may also be entitled to salvage, if the services he rendered were such that he could not be expected to perform them for the ordinary or extraordinary pilotage fees. *Akerblom v. Price* (1881), 7 Q. B. D. 129.

(*u*) § 586, s. 2.

shall be entitled, over and above his pilotage dues, to the sum of ten shillings and sixpence a day (*x*).

(2.) The sum so to be paid shall be computed from and inclusive of the day on which the ship passes the limit up to which the pilot was engaged to pilot her, and up to and inclusive of either the day of his being returned in the said ship to the place where he was taken on board, or, if he is discharged from the ship at a distance from that place, such day as will allow him sufficient time to return thereto ; and in the last-mentioned case he shall be entitled to his reasonable travelling expenses.

Penalty on making a false declaration to pilot as to draught of ship. 1854, s. 359.

595.—(1.) The master (*y*) of a ship (*y*), on being requested by any qualified pilot (*z*) having the charge of his ship, shall declare her draught of water (*a*).

(2.) If a master (*y*) refuses so to declare the draught of water, or himself makes, or is privy to any other person making, a false declaration to the pilot (*y*) in relation thereto, he shall for each offence be liable to a fine not exceeding double the amount of pilotage dues which would have been payable to that pilot (*b*).

(3.) If the master (*y*) of a ship, or any other person interested in the ship, makes, or is privy to the making of, any fraudulent alteration in the marks on the stem or stern post of the ship denoting the draught of water, he shall for each offence be liable to a fine not exceeding five hundred pounds (*c*).

Occasions on which unqualified pilots may act. 1854, s. 362.

596. An unqualified pilot (*d*) may, within any pilotage district, without subjecting himself or his employer to any penalty, take charge of a ship as pilot:—

(*a*.) when no qualified pilot (*d*) has offered to take charge of that ship, or made a signal for that purpose :

(*b*.) when a ship is in distress, or under circumstances

(*x*) Agents or consignees liable for pilotage dues under § 591, s. 1 (*b*.), (*c*.), are not, for that reason, also liable for this payment. *Morteo v. Julian* (1879), 4 C. P. D. 216.

(*y*) Defined, § 742.

(*z*) § 586, s. 1.

(*a*) The pilotage dues usually de-

pend on the ship's draught.

(*b*) Procedure, §§ 680–684 ; application of fine, §§ 699, 716.

(*c*) Cannot be recovered summarily ; procedure by indictment. Application of fine, §§ 699, 716.

(*d*) Cf. § 586. See *Stafford v. Dyer* (1895), 1 Q. B. 566.

making it necessary for the master (e) to avail himself of the best assistance which can be found at the time: or

- (c.) for the purpose of changing the moorings of any ship in port (e), or of taking her into or out of any dock, in cases where the act can be done by an unqualified pilot (f) without infringing the regulations of the port (e), or any orders which the harbour master is legally empowered to give.

597. A qualified pilot (f) may supersede an unqualified pilot (f), but the master shall pay to the unqualified pilot a proportionate sum for his services, and deduct that sum from the charge of the qualified pilot (f); and in case of dispute the pilotage authority (g) by whom the qualified pilot (f) is licensed (f) shall determine the proportionate sums to which each party is entitled.

Power of qualified to supersede unqualified pilot. 1854, s. 1854, s. 360.

598.—(1.) If an unqualified pilot (f), whether within a district in which pilotage is compulsory (h) or outside such a district, assumes or continues in the charge of a ship (e) after a qualified pilot (f) has offered to take charge of the ship he shall for each offence be liable to a fine not exceeding fifty pounds (i).

Penalties as to employment of unqualified pilot. 1854, ss. 353, 361. 52 & 53

(2.) If a master (e) of a ship (e) whether navigating within a district in which pilotage is compulsory (h) or outside such a district, knowingly employs or continues to employ an unqualified pilot (f) after a qualified pilot (f) has offered to take charge of the ship or has made a signal for that purpose, he shall for each offence be liable to a fine of double the amount of pilotage which could be demanded for the conduct of the ship (i).

Vict. c. 68, s. 5.

Pilotage Certificates for Masters (e) and Mates.

599.—(1.) A pilotage authority (g) may, if they think fit, on the application of the master (e) or mate of any ship (e),

Pilotage Certificates for Masters and Mates.

(e) Defined, § 742.
(f) Cf. § 586. Qualified for that ship; see *Stafford v. Dyer* (1895), 1 Q. B. 566.

(g) Defined, § 573.
(h) §§ 603, 622.
(i) Procedure, §§ 680-684; fine how applicable, §§ 699, 716.

Grant of pilotage

certificates and on payment by him of the usual expenses, examine him as to his capacity to pilot the ship (*k*) of which he is master or mate, or any one or more ships (*k*) belonging to the same owner as that ship, within any part of the district of the pilotage authority (*l*).

to masters
and mates.
1854, ss.
340, 341.

(2.) A pilotage authority (*l*), if on examination they find that any master (*k*) or mate is competent, shall grant him a certificate (in this Act referred to as a pilotage certificate), specifying—

- (a.) the name (*k*) of the person to whom it is granted :
- (b.) the ship (*k*) or ships in respect of which it is granted :
- (c.) the limits within which the master or mate is entitled to pilot the ship or ships : and
- (d.) the date on which it is granted.

(3.) The person to whom a pilotage certificate (*m*) is granted (*n*) shall, while he is acting as master (*k*) or mate of any of the ships specified in the certificate (*m*), be entitled to pilot that ship within the limits specified in the certificate (*m*), without incurring any penalty for not employing a qualified pilot (*o*).

(4.) A pilotage certificate (*m*) so granted shall not be in force for more than the period of one year from its date, but may be renewed from year to year by an endorsement under the hand of the secretary or other proper officer of the pilotage authority (*l*) who have granted the certificate.

Appeal by
master or
mate to
Board of
Trade.
1854, s.
342.

600.—(1.) If it appears to the Board of Trade upon complaint made to them—

- (a.) that a pilotage authority (*l*) have without reasonable cause refused or neglected to examine a master (*k*) or mate who has applied to them for the purpose ; or
- (b.) that a pilotage authority (*l*) have without reasonable cause refused or neglected to grant a pilotage certificate (*m*) after examination ; or
- (c.) that an examination of a master (*k*) or mate has been unfairly or improperly conducted ; or

(*k*) Defined, § 742.

(*l*) Defined, § 573.

(*m*) § 599, s. 2.

(*n*) The certificate is not "granted" till the master actually receives it; therefore where a certificate duly

sealed was waiting at the office of the pilotage authority for the master, who was ignorant of it, he was held not entitled to pilot his ship. *The Killarney* (1862), Lush. 202, 427.

(*o*) § 603, s. 2.

(d.) that a pilotage authority (*p*) have imposed unfair or improper terms or conditions on the granting of a certificate (*q*); or

(e.) that a pilotage certificate (*q*) has been improperly withdrawn from the holder thereof,

the Board of Trade, if the circumstances of the case appear to them to require it, may appoint persons to examine the master (*r*) or mate, and, if he is found competent, grant him a pilotage certificate (*q*) upon such terms and conditions as they think fit.

(2.) The pilotage certificate (*q*) so granted shall contain the same particulars, be of the same effect, and be in force for the same period as a certificate (*s*) granted by a pilotage authority (*p*), and may be renewed either by the pilotage authority (*p*) of the district, or if the Board of Trade think fit by that Board, and the renewal, if it is granted by the Board of Trade, shall be endorsed on the certificate (*s*) by some person appointed by the Board of Trade for the purpose, and, if it is granted by a pilotage authority (*p*), shall be endorsed on the certificate (*s*) in the same manner as in the case of certificates of pilotage originally granted by them (*t*).

601. The Board of Trade or a pilotage authority (*p*), as the case may be, may respectively withdraw any pilotage certificate (*s*) granted by them if it appear to them that the holder thereof has been guilty of misconduct or has shown himself incompetent to pilot his ship, and a certificate so withdrawn shall cease to be of effect.

602.—(1.) Masters and mates shall pay such fees upon the granting and renewal of pilotage certificates (*s*) as—

(a.) in the case of certificates granted or renewed by a pilotage authority (*s*) may be fixed by that authority (*p*) with the consent of the Board of Trade;

(b.) in the case of certificates granted or renewed by the Board of Trade (*u*) may be fixed by that Board, provided that they are not less than the fees paid

With-
drawal of
certificate.
1854, s.
344.
Fees for
pilotage
certifi-
cates.
1854, s.
943.
52 & 53
Vict. c. 68,
s. 8.

(*p*) Defined, § 573.

(*q*) § 592, s. 2.

(*r*) Defined, § 742.

(*s*) § 599, s. 2.

(*t*) § 599, s. 4.

(*u*) § 600.

by qualified pilots (*x*) in the same district in respect of the granting and renewal of licences.

(2.) The fees so received by a pilotage authority (*y*) in respect of certificates (*z*) shall be applicable to the expenses of and incidental to the examinations for the certificates and to the payment of such charges in connection with the preparation and renewal thereof as may be approved by the Board of Trade, and the surplus (if any) shall be applied for the benefit of the pilots' superannuation fund of the port (*a*) or district (if any), or otherwise for the benefit of the qualified pilots (*x*) of the port (*a*) or district to which the certificates (*z*) apply in such manner as the pilotage authority (*y*) may think fit.

(3.) The fees received by the Board of Trade in respect of pilotage certificates (*b*) shall be applicable to the expense of the examinations for those certificates, and the surplus (if any) shall be applied for the benefit of the qualified pilots (*x*) of the port (*a*) or district to which the certificates apply in such manner as the Board thinks fit.

Compulsory Pilotage.

*Compul-
sory
Pilotage.*

Compul-
sory
pilotage.
1854, s.
353.

603.—(1.) Subject to any alteration to be made by the Board of Trade (*c*) or by any pilotage authority (*d*) in pursuance of the powers herein-before contained, the employment of pilots (*a*) shall continue to be compulsory in all districts where it was compulsory immediately before the commencement of this Act (*e*), but all exemptions from that compulsory pilotage shall continue to be in force (*e*).

(*x*) § 586.

(*y*) Defined, § 573.

(*z*) § 599, s. 2.

(*a*) Defined, § 742.

(*b*) § 600.

(*c*) Under § 578.

(*d*) Under § 581.

(*e*) Immediately before the commencement of this Act (January 1, 1895), compulsory pilotage existed in certain districts, not only by virtue of the sections reproduced in § 622, making it compulsory in the London district and the Trinity House out-port districts; or of the section re-

produced under § 604 of this Act, making it compulsory on ships carrying passengers; but also by virtue of § 353 of the Act of 1854, (1) making pilotage compulsory "in all districts in which the same was by law compulsory immediately before the time when" that Act came into operation, *i.e.* May 1, 1855, and (2) continuing the exemptions then existing in such districts. Before May 1, 1855, pilotage was compulsory in a number of districts by various charters and Acts, and a set of general exemptions to such compulsory pilotage was con-

(2.) If, within a district where pilotage is compulsory (e), the master of an unexempted ship after a qualified

tained in §§ 59-63, 71, of the Pilot Act of 1825 (6 Geo. IV. c. 125). In addition, therefore, to making, in the case of any ship entering any port, the investigations mentioned in the Preliminary Note to this Part on other points, it will also be necessary to ascertain whether pilotage was compulsory for such a ship in such a district before May 1, 1855, or whether there were then existing any exemptions for such a district. It was decided, in *The Earl of Auckland* (1860), Lush. 164, 387, following *R. v. Stanton* (1857), 8 E. & B. 445, that this was the effect of § 353 of the Act of 1854; and the same reasoning will be applied to the present section, which purports to reproduce § 353 of the Act of 1854, though in reality it adds one more link to the chain by which the compulsion is imposed. Thus, in *The Hankow* (1879), 4 P. D. 197, the court had to consider whether the general provision reproduced in § 622 was inapplicable, by reason of *The Hankow's* coming within an exemption in the Act of 1825; which involved the further question whether, before 1825, provision had been made for the appointment of pilots in London. Exemptions introduced by this section (§ 603) will be overridden by the express provisions of § 604, if the ship comes within them (*The Temora* (1860), Lush. 17); but not by those of § 622 if they apply. See *The Hankow* (1879), 4 P. D. 197. In the result of this section as to particular ports, see Appendix No. 11. The principal provisions of 6 Geo. IV. c. 125 are as follows:—

59. Notwithstanding anything in this Act contained, the master of any collier, or of any ship or vessel trading to Norway, or to the Cattegat or Baltic, or round the North Cape, or into the White Sea, on their inward or outward voyage, or of any constant trader inwards (.), from the ports between Boulogne inclusive

and the Baltic (all such ships and vessels having British registers (*), and coming up either by the North Channel, but not otherwise (*)), or of any Irish trader using the navigation of the Rivers Thames and Medway (*), or of any ship or vessel employed in the regular coasting trade of the kingdom (*), or of any ship or vessel wholly laden with stone from Guernsey, Jersey, Alderney, Sark, or Mau, and being the production thereof, or of any ship or vessel not exceeding the burthen of sixty tons, and having a British register (*), except as hereinafter provided; or of any other ship or vessel whatever, whilst the same is within the limits of the port or place to which she belongs, the same not being a port or place in relation to which particular provisions hath heretofore been made by any Act or Acts of Parliament, or by any charter or charters for the appointment of pilots (*), shall and may lawfully, and without being subject to any of the penalties by this Act imposed, conduct or pilot his own ship or vessel, when and so long as he shall conduct or pilot the same without the aid or assistance of any unlicensed pilot or other person or

(*) Cf. *The Vesta* (1882), 7 P. D. 240; *The Hanna* (1866), L. R. 1 A. & E. 283.

(*) See *The Hanna* (1866), L. R. 1 A. & E. 283. The Order in Council (February 18, 1854) extends the exemption to such ships when coming up by the South Channel.

(*) If she has passengers on board, pilotage is compulsory under § 604 of this Act. *The Temora* (1860) Lush. 17.

(*) Not if merely on one coasting voyage, her ordinary occupation being foreign trade. *The Agricola* (1843), 2 W. Rob. 10; cf. *The Lloyds or Sea Queen* (1863), Br. & L. 359; but see notes to § 625.

(*) London is a place for which provision has been made, and to which this exemption does not apply. *The Hankow* (1879), 4 P. D. 197.

(1) Extended by Order in Council, February 18, 1854, to such traders outwards.

pilot (*f*) has offered to take charge of the ship, or has made a signal for the purpose, pilots his ship himself without holding the necessary certificate (*g*), he shall be liable for each offence to a fine of double the amount of the pilotage dues that could be demanded for the conduct of the ship (*h*).

Home-trade passenger ships to carry pilots (*m*)
1854, ss.
354, 355.

604.—(1.) The master (*i*) of every ship (*i*) carrying passengers (*k*) between any place in the British Islands (*l*), and any other place so situate, shall, while navigating within the limits of any district for which pilots are licensed (*f*) under this or any other Act, employ a qualified pilot (*n*), unless he or the mate of his ship holds a pilotage certificate (*g*) or a certificate granted under this section (*o*) applying to the district, and, if he fails (*p*) to do so, shall

persons than the ordinary crew of the said ship or vessel.

60. Provided also, That from and after the passing of this Act it shall and may be lawful for His Majesty, by and with the advice of his Privy Council, or by any Order or Orders in Council, to permit and authorize ships and vessels not exceeding the burthen of sixty tons, and not having a British register, to be piloted and conducted without having a duly licensed pilot on board, upon the same terms and conditions as are by this Act imposed on British ships and vessels, not exceeding the like burthen.

61. Provided also, That nothing in this Act contained shall extend or be construed to extend to subject the master or owner of any ship or vessel to any of the penalties of this Act, for employing any person or persons whomsoever as a pilot or pilots in and for the assistance of such ship or vessel whilst the same shall be in distress, or in consequence thereof, or under any circumstances which shall have rendered it necessary for such owner or master to avail himself of the best assistance which at the time could be procured, anything herein contained to the contrary thereof in any wise notwithstanding.

(*f*) § 586. See *Stafford v. Dyer* (1895), 1 Q. B. 566.

(*g*) § 599, s. 2.

(*h*) See note (*e*), p. 462.

(*i*) Defined, § 742.

(*k*) A contract with the ship-owners imposing a liability to pay a fare is essential to constitute a person on a ship a "passenger." Thus in *The Lion* (1868), L. R. 2 A. & E. 102, 2 P. C. 525, the captain's wife and father-in-law were on board the ship without the owner's knowledge, paying nothing for their living, but alleged, after the collision, to have paid fares under an arrangement made after the collision. In *The Hanna* (1866), L. R. 1 A. & E. 283, a person working his passage, but messing with the captain and paying nothing, was held by Dr. Lushington a "nondescript." In neither case was the steamer held to have "passengers" on board so as to become liable to take a pilot.

(*l*) Int. Act, 1859, § 18, s. 1.

(*m*) This marginal note is wrong, as by § 742 "home-trade ships" include ships which trade from the United Kingdom to the continent between Brest and the Elbe; and these are not covered by this clause, which only relates to vessels trading between two ports in the British Islands.

(*n*) This section overrides any exemption claimed under § 603. Cf. *The Temora* (1860), Lush. 17, where an "Irish trader," as exempted in 6 Geo. IV. c. 125, s. 59, but carrying passengers, was held liable to take a pilot in the Thames.

(*o*) Sub-s. 2.

(*p*) Includes refusal; § 742.

for each offence be liable to a fine not exceeding one hundred pounds (*q*).

(2.) The Board of Trade, on the application of the master (*r*) or mate of any such ship as aforesaid (*s*), and on being satisfied, by examination or otherwise, as the Board may deem expedient, of the competency of that master or mate, may grant him a certificate authorizing him to pilot any ship (*r*) or ships belonging to the same owner and not being of greater draught of water than that stated in the certificate within the limits aforesaid (*s*), and any master or mate to whom the certificate is granted shall be entitled to conduct any such ship as is specified in the certificate within the limits specified in the certificate.

(3.) The certificate shall remain in force for such time as the Board of Trade may direct and may be endorsed on any certificate of competency obtained under the Second Part of this Act (*t*).

(4.) A master (*r*) or mate shall, on the application for a certificate under this section (*u*), or for a renewal thereof, pay to the Board of Trade, or as the Board directs, such fees not exceeding those payable under the Second Part of this Act (*x*) on an examination for a master's certificate of competency as the Board of Trade may direct, and those fees shall be applied as the fees payable on that examination (*x*).

605.—(1.) The master (*r*) and owner (*y*) of any ship (*r*) passing (*z*) through any pilotage district in the United Kingdom on a voyage between two places both situate out of that district, shall be exempted from any obligation to employ a pilot in that district or to pay pilotage rates when not employing a pilot within that district.

Exemption from compulsory pilotage. 1862, s. 41. Sec 1854, s. 379 (6).

(2.) The exemption under this section shall not apply to

(*q*) Procedure, §§ 680–684; fine how applicable, §§ 699, 716.

(*r*) Defined, § 742.

(*s*) Sub-s. 1.

(*t*) § 92, *et seq*.

(*u*) Sub-s. 2.

(*x*) § 97.

(*y*) Note to § 58.

(*z*) *Semble*, that putting into a port in the district in distress would not prevent a vessel from coming under this clause (cf. § 596), unless it loaded or discharged cargo. Cf. *The Sutherland* (1887), 12 P. D. 154, on another section.

ships loading (a) or discharging at any place situate within the district or at any place situate above the district on the same river or its tributaries (b).

Offences, and Suspension and Dismissal, of Pilots (c).

606. (1.) If a qualified pilot (d), either within or without the district for which he is licensed (e),—

(a.) himself keeps, or is interested in keeping by any agent, servant, or other person, any public-house or place of public entertainment, or sells or is interested in selling any wines, spirituous liquors, tobacco, or tea;

(b.) commits any fraud or offence against the revenues of customs, or against the excise or the laws relating thereto;

(c.) is or may be directly or indirectly concerned in any manner in the management of a ship, their tackle, or the cargo thereof, or in the management of persons or property, or in the management of their moneys, or in the management of their property;

(d.) is or may be concerned

(e.) is or may be concerned

(f.) is or may be concerned

(g.) is or may be concerned or board any ship, or is or may be concerned in the management of a ship, or is or may be concerned in the management of persons or property, or in the management of their moneys, or in the management of their property;

(h.) is or may be concerned or board any ship, or is or may be concerned in the management of a ship, or is or may be concerned in the management of persons or property, or in the management of their moneys, or in the management of their property;

(i.) is or may be concerned or board any ship, or is or may be concerned in the management of a ship, or is or may be concerned in the management of persons or property, or in the management of their moneys, or in the management of their property;

pilotage authority (*g*) by whom the pilot is licensed, or by any chief officer of customs (*h*);

(*i*.) unnecessarily cuts or slips or causes to be cut or slipped any cable belonging to any ship;

(*k*.) refuses, when requested by the master (*h*), to conduct the ship of which he has charge into any port or place into which he is qualified (*i*) to conduct the same, except on reasonable ground of danger to the ship; or

(*l*.) quits the ship of which he has charge without the consent of the master (*h*), before the service for which he was hired has been performed,

that pilot (*h*) shall for each offence, in addition to any liability for damages, be liable to a fine not exceeding one hundred pounds (*k*).

(2.) If any person procures, aids, abets, or connives at the commission of any offence under this section, he shall, in addition to any liability for damages, be liable to a fine not exceeding one hundred pounds (*k*).

(3.) If a qualified pilot (*i*) commits an offence under this section, or procures, aids, abets, or connives at the commission of any such offence, he shall, in addition to his liability to a fine, be liable (*l*) to suspension or dismissal by the pilotage authority (*g*) by whom he is licensed (*i*).

607. If any pilot (*h*), when in charge of a ship (*h*), by wilful breach of duty or by neglect of duty, or by reason of drunkenness, either—

(*a*.) does any act tending to the immediate loss, destruction, or serious damage, of the ship, or tending immediately to endanger the life or limb of any person on board the ship; or

(*b*.) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the ship from loss, destruction, or serious damage, or for preserving

(*g*) § 573.

(*h*) Defined, § 742.

(*i*) § 586.

(*k*) Procedure, §§ 680-684; fine

how applicable, §§ 699, 716.

(*l*) Appeal from pilotage authority; see § 609.

Penalty on pilot endangering ship, life, or limb. 1854, s. 366.

- (a) incorporate the body to whom the transfer is made if it is a new body;
- (b.) make the body to whom the transfer is made a pilotage authority (*m*), with such powers as may be mentioned in the provisional order (*n*);
- (c.) determine the limits of the district of the pilotage authority (*m*) to whom the transfer is made;
- (d.) sanction a scale of pilotage rates to be taken by the pilots (*p*) licensed by that authority (*m*);
- (e.) determine to what extent and under what conditions any pilots (*o*) then already licensed by the pilotage authority (*m*) from whom the transfer is made are to continue to act under the pilotage authority (*m*) to whom the transfer is made;
- (f.) sanction arrangements for the apportionment of any pilotage funds belonging to the pilots (*o*) licensed by the pilotage authority (*m*) from whom the transfer is made, between the pilots (*o*) remaining under the jurisdiction of that authority (*m*), and the pilots (*o*) who are transferred to the jurisdiction of the authority (*m*) to whom the transfer is made;
- (g.) provide for such compensation or superannuation as may be just to officers employed by the pilotage authority (*m*) from whom the transfer is made, and not continued by the pilotage authority (*m*) to whom the transfer is made.

Direct
representa-
tion of pilots,
&c., on
pilotage
authority.
52 & 53
Vict. c. 68,
s. 2.

577. The Board of Trade may by provisional order (*n*) make provision or further provision for the direct representation of pilots (*o*), and, if it seems expedient, also of shipowners, on the pilotage authority (*m*) of any district, or if there is a pilotage committee of that authority, or any body of commissioners or sub-commissioners appointed by that authority, then on that committee or body.

Exemption
from
compul-
sory pilot-
age.
1862, s. 89.

578. The Board of Trade may by provisional order (*n*) exempt (*p*) the masters (*o*) and owners of all ships (*p*), or

(*m*) Defined, § 573.

(*n*) § 580 provides for making and confirmation of provisional orders.

(*o*) Defined, § 742.

(*p*) As to compulsory pilotage, see §§ 603, 622.

of any classes of ships, from being obliged to employ pilots (*q*) in any pilotage district or in any part of any pilotage district, or from being obliged to pay for pilots (*q*) when not employing them in any district or in any part of any pilotage district, and annex any terms and conditions to those exemptions (*r*).

579.—(1.) Where the pilotage is not compulsory (*s*), and there is no restriction on the power of duly qualified persons to obtain licences as pilots (*q*), the Board may by provisional order (*t*) give any pilotage authority (*u*) power to license pilots (*q*), and to fix pilotage rates for their district or any part of their district for which no such licences or rates for the time being exist, and to raise all or any of the pilotage rates in force in their district or any part of their district; and, where there is also no restriction on the number of pilots (*q*), to give additional facilities for the recovery of pilotage rates, and for preventing the employment of unqualified (*x*) pilots (*q*).

Power of Board of Trade to give facilities with respect to licences, rates, &c. 1862, s. 39.

(2.) The Board of Trade may by provisional order (*t*) give facilities for enabling duly qualified persons, after examination as to their qualifications, to obtain licences as pilots (*q*).

580.—(1.) The Board of Trade may make a provisional order (*t*) under this Part of this Act on the application in writing of some person interested in the pilotage of the district or in the operation of the laws or regulations relating to that pilotage.

Making and confirming provisional orders. 1862, s. 40.

(2.) Notice of the application having been made shall be published once at least in each of two successive weeks in the month (*y*) immediately succeeding the date of the application in the Shipping Gazette, and in some newspaper or newspapers circulating in the county, or, if there are more than one county, in the counties adjacent to the pilotage district to which the application relates.

(*q*) Defined, § 742.

§§ 603, 622.

(*r*) The only provisional orders made under this section exempting from compulsory pilotage are 54 & 55 Vict. c. clx. (Bristol Channel), and 55 & 56 Vict. c. xxxi. (Swansea).

(*t*) § 580 provides for making and confirmation of provisional orders.

(*u*) Defined, § 573.

(*x*) Cf. § 586.

(*y*) Int. Act, 1889, § 3.

(*s*) As to compulsory pilotage, see

may be made by the court of session by Acts of sederunt with respect to the procedure in case of those appeals in Scotland (including costs and the remuneration of assessors) subject to the concurrence of the Treasury as to fees.

(9.) In the application of this section to Ireland—

(a.) The expressions “judge of county courts” and “judge” shall respectively mean a county court judge and chairman of quarter sessions, and include recorder;

(b.) The expressions “stipendiary magistrate” and “magistrate” shall respectively mean a magistrate appointed under the Constabulary (Ireland) Act, 1836 (*f*).

(c.) Rules with respect to the procedure in case of appeals under this section (including costs and the remuneration of assessors) may from time to time be made, as respects county court judges and chairmen of quarter sessions, by the authority having power to make rules and orders for regulating the practice under the County Officers and Courts (Ireland) Act (*g*), 1877, and as respects stipendiary magistrates, by the Lord Lieutenant of Ireland in Council, but in either case with the concurrence of the Treasury as to fees.

*Pilot Boats
and Pilot
Signals.*

Pilot Boats and Pilot Signals.

Approval
of pilot
boats.
1854, s.
345.

611. All boats and ships regularly employed in the pilotage service of any district (in this Part of this Act referred to as pilot boats) shall be approved and licensed by the pilotage authority (*h*) of the district, and that authority may, at their discretion, appoint and remove the masters (*i*) of those pilot boats.

Character-
istics of
pilot boats.
1854, s.
346.

612.—(1.) Every pilot boat (*k*) shall be distinguished by the following characteristics; namely—

(a.) On her stern the name of her owner and the port (*i*) to which she belongs (*l*), painted in white letters at least one inch broad and three inches long, and on each bow the number of her licence (*k*).

(*f*) 6 & 7 Will. IV. c. 13.

(*g*) 40 & 41 Vict. c. 56, § 79.]

(*h*) s. 573.

(*i*) Defined, § 742.

(*k*) § 611.

(*l*) § 13.

(b.) In all other parts a black colour painted or tarred outside, or such other colour or colours as the pilotage authority (*m*) of the district, with the consent of the Board of Trade, direct.

(c.) When afloat a flag (in this Act called a pilot flag) of large dimensions compared with the size of the pilot boat, and of two colours, the upper horizontal half white, and the lower horizontal half red, to be placed at the mast head, or on a sprit or staff, or in some equally conspicuous situation.

(2.) It shall be the duty of the master (*n*) of the pilot boat (*o*) to see that the pilot boat possesses all the above characteristics, and that the pilot flag (*p*) is kept clean and distinct, so as to be easily discerned at a reasonable distance; and also that the names and numbers aforesaid are not at any time concealed; and if a master (*n*) fails (*q*) without reasonable cause to comply with the requirements of this section, he shall for each offence be liable to a fine not exceeding twenty pounds (*r*).

613.—(1.) When a qualified pilot (*s*) is carried off in a vessel not in the pilotage service, he shall exhibit a pilot flag (*p*) in order to show that the vessel has a qualified pilot on board; and if he fails (*q*), without reasonable cause, to do so, he shall for each offence be liable to a fine not exceeding fifty pounds (*r*).

Display of pilot flag, when pilot is on board vessel. 1854, a. 347. 52 & 53 Vict. c. 68, s. 9.

(2.) Where the master (*n*) or mate of a ship holds a pilotage certificate (*t*), a pilot flag (*p*) shall be displayed on board the ship while that master or mate is on board and the ship is within a pilotage district in which pilotage is compulsory (*u*), and if default is made in complying with the enactment, the master (*n*) of the ship shall for each offence be liable to a fine not exceeding twenty pounds (*r*).

614. A pilot flag (*p*) or a flag so nearly resembling a pilot

Penalty on ordinary

(*m*) § 573.

(*n*) Defined, § 742.

(*o*) § 611.

(*p*) § 612, s. 1 (*c.*).

(*q*) Includes refusal; § 742.

(*r*) Procedure, §§ 680-684; fine

how applicable, §§ 699, 716.

(*s*) § 586.

(*t*) §§ 599, 600.

(*u*) See Preliminary Note to this Part.

boat displaying pilot flag. 1854, s. 348. 52 & 53 Vict. c. 68, ss. 9, 10.

flag as to be likely to deceive shall not be displayed on any ship or boat not having a licensed pilot (*u*) or master or mate holding a pilotage certificate (*x*) on board, and if on any such ship or boat any such flag is displayed, the owner (*y*) or master (*z*) of that vessel (*z*) shall, unless in the case of the display of a flag likely to deceive he proves that he had no intention to deceive, be liable for each offence to a fine not exceeding fifty pounds (*a*).

Signals to be displayed by ships requiring a pilot. 36 & 37 Vict. c. 85, ss. 19, 20.

615.—(1.) Her Majesty may by Order in Council (*b*) make rules as to the signals to be used or displayed where the services of a pilot (*z*) are required on any vessel (*z*), and those signals are in this Act referred to as pilot signals.

(2.) If a vessel (*z*) requires the services of a pilot, the master (*z*) of that vessel shall use or display the pilot signals (*c*).

(3.) If a master (*z*) of a vessel (*z*) uses or displays, or causes or permits any person under his authority to use or display, any of the pilot signals (*c*) for any other purpose than that of summoning a pilot, or uses or causes or permits any person under his authority to use any other signal for a pilot, he shall for each offence be liable to a fine not exceeding twenty pounds (*a*).

Trinity House.

Trinity House (z).

Power of Trinity House to alter regulations. 1854, s. 368.

616. The Trinity House (*z*) may, in the exercise of the general powers given to pilotage authorities under this Part of this Act (*d*), alter such of the provisions herein-after contained in this Part of this Act as are expressed to be subject to alteration by them (*e*) in the same manner and to the same extent as they might have been altered if these provisions had been contained in any previous Act of Parliament instead of this Act (*f*).

(*u*) § 586.

(*x*) §§ 599, 600.

(*y*) Note to § 58.

(*z*) Defined, § 742.

(*a*) Procedure, §§ 680-684; fine how applicable, §§ 699, 716.

(*b*) § 738; such an Order in Council has been made, and is printed in Appendix XII.

(*c*) § 615, s. 1.

(*d*) §§ 581, 582.

(*e*) §§ 619, 622-624, 626-628, 630.

(*f*) This is reproduced from the Act of 1854, and gives the Trinity House all powers of alteration in any Acts, whether before or after the Act of 1854, including that Act. The section appears to refer to §§ 581, 582.

Sub-Commissioners (Trinity House).

617.—(1.) The Trinity House (*g*) shall continue to appoint sub-commissioners (not being more than five nor fewer than three) for the examination of pilots (*g*) in all districts in which the Trinity House have before the commencement of this Act been used to make those appointments (*h*), and may, with the consent of Her Majesty in Council (*i*), but not otherwise, appoint like sub-commissioners of any other district in which no particular provision is made by any Act of Parliament or charter for the appointment of pilots (*k*).

Sub-Commissioners (Trinity House).

Power of Trinity House to appoint sub-commissioners. 1854, s. 369.

(2.) A pilotage district which is at the commencement of this Act under the authority of any sub-commissioners appointed by the Trinity House (*l*) shall not be extended, except with the consent of Her Majesty in Council (*i*), and sub-commissioners appointed by the Trinity House (*g*) shall not be deemed to be pilotage authorities (*n*) within the meaning of this Act.

Licensing of Pilots by Trinity House (g).

618 (o).—(1.) The Trinity House (*g*) shall continue, after due examination by them or their sub-commissioners (*p*), to appoint and license, under their common seal, pilots (*g*) for the purpose of conducting ships within the following limits or in any area within those limits; namely,—

Licensing of Pilots by Trinity House.

Licensing of pilots by Trinity House within certain limits 1854, s. 370.

(i.) The London district, consisting of the waters of the Thames and Medway as high as London Bridge and Rochester Bridge respectively, and also the sea and channels leading thereto or therefrom as far as Orfordness to the north, and Dungeness to the south (*q*).

(*g*) Defined, § 742.

(*h*) Cf. *The Juno* (1876), 1 P. D. 135.

(*i*) § 738.

(*k*) Cf. § 618, s. 1 (iii.).

(*l*) Sub-s. 1.

(*n*) As defined in § 573.

(*o*) See as to the effect of this section, and §§ 622, 625, the Preliminary Note to this Part.

(*p*) § 517.

(*q*) Pilotage is compulsory within this district (§ 622), as qualified by the exemptions in § 625, and those introduced by § 603, as qualified by § 604. See Preliminary Note to this Part. For cases in London, see *The Hunkow* (1879), 4 P. D. 197; *The Temora* (1860), Lush. 17; *The Earl of Auckland* (1860), Lush. 164, 387.

(ii.) The English Channel district, consisting of the seas between Dungeness and the Isle of Wight (r).

(iii.) The Trinity House outport districts, comprising any pilotage district for the appointment of pilots within which no particular provision is made by any Act of Parliament or Charter (s).

(2.) The Trinity House shall not license a pilot to conduct ships both above and below Gravesend.

Regulations as to pilots' licences. 1854, ss. 371, 372, 374.

619. Subject to any alteration to be made by the Trinity House (t), the following provisions shall apply to the licensing of pilots by them:—

(i.) The names of all pilots licensed by the Trinity House shall be published by them—

(a) by fixing at their house in London (u) a notice specifying the name and usual place of abode of every pilot so licensed, and the limits within which he is licensed to act; and

(b) by transmitting copies of that notice to the Commissioners of Customs in London, and to the chief officers of customs (x) at all ports or places within the limits for which the pilot is licensed; and those copies shall be posted up at the Custom House in London, and at the custom house at those ports or places.

(ii.) Every Trinity House pilot shall, on his appointment, execute a bond for one hundred pounds, conditioned for the due observance on his part of the regulations and byelaws of the Trinity House, and that bond shall be free from stamp duty, and from every other charge except the actual expense of preparing the same.

(iii.) A licence granted to a pilot by the Trinity House (x) shall not continue in force beyond the thirty-first day

Taking pilots at Dungeness, see § 624.

(r) Except in so far as the district is comprised in Trinity outport districts (e.g. Newhaven, Shoreham, Isle of Wight; see notes to sub-a. iii.), or in other pilotage districts (e.g. Arundel), pilotage is not compulsory

in this district.

(s) See a list of these in Appendix XI. As to *prima facie* proof of them, see *The Juno* (1876), 1 P. D. 135.

(t) By byelaw under §§ 581, 582.

(u) The Trinity House, Trinity House Square.

(x) Defined, § 742.

of January next following the date of that licence; but the licence may, upon the application of the pilot holding the same, be renewed on or before the thirty-first day of January in every year, or on any subsequent day, by endorsement under the hand of the secretary of the Trinity House, or such other person as may be appointed by them for that purpose (y).

620. A qualified pilot (z) appointed by the Trinity House (a) who has executed a bond under this Part of this Act shall not be liable for neglect or want of skill beyond the penalty of the bond, and the amount payable to him on account of pilotage in respect of the voyage in which he was so engaged when he became so liable.

621. The Trinity House (a) may revoke or suspend the licence of any pilot appointed by them in such manner and at such time as they think fit.

Compulsory Pilotage (Trinity House).

622 (b).—(1.) Subject to any alterations to be made by the Trinity House (c), and the exemptions under this Part of this Act (d), pilotage shall be compulsory within the London district (e), and the Trinity House outport districts (f).

(2.) If a master (a) of a ship (a) navigating within those districts (g), after a qualified pilot (z) has offered to take charge of the ship, or made a signal for the purpose, either himself pilots the ship without possessing a pilotage certificate (h), or employs or continues to employ an unqualified person to pilot her, he shall for each offence be liable, in addition to any other penalty under this Part of this Act (i), to a fine not exceeding five pounds for every fifty tons burden of the ship, if the Trinity House (a) certify in

(y) Cf. *The Beta* (1865), 2 Asp. M. C. O. S. 165.

(z) § 588.

(a) Defined, § 742.

(b) See Preliminary Note to this Part.

(c) By byelaw under §§ 581, 582.

(d) §§ 603, 605, 625, and Preliminary Note.

(e) § 618, s. 1 (i.).

(f) Ibid. s. 1 (iii.).

(g) Cf. § 605.

(h) §§ 599, 600.

(i) § 603, s. 2.

Pilot's liability limited. 1854, s. 373.

Power to revoke and suspend licences. 1854, s. 375.

Compulsory Pilotage.

Compulsory districts of Trinity House. 1854, s. 376.

writing, under their common seal, that the prosecutor may proceed for the same (*k*).

Constant
supply of
pilots at
Dun-
geness.
1854, s.
377.

623. Subject to any alteration to be made by the Trinity House (*l*) a sufficient number of qualified pilots (*m*) shall always be ready to take charge of ships coming from the westward past Dungeness; and the Trinity House (*n*) shall, by byelaw made under this Part of this Act (*l*), make such regulations with respect to the pilots under their control as may be necessary in order to provide an unintermitted supply of qualified pilots (*o*) for those ships, and to insure their constant attendance upon, and due performance of, their duty both by night and day, whether by cruising between the South Foreland and Dungeness, or by going off from shore upon signals made for the purpose, or by both of those means, or by any other means, and whether in rotation or otherwise, as the Trinity House think fit.

Ships from
London(*p*)
coming
past Dun-
geness to
take the
first pilot.
1854, s.
378.

624.—(1.) Subject to any alteration to be made by the Trinity House (*q*), a master of any ship coming from the westward, and bound to any place in the River Thames or Medway (unless she has a qualified pilot (*o*) on board, or is exempted from compulsory pilotage (*r*)), shall, on the arrival of the ship off Dungeness, and thenceforth until she has passed the south buoy of the Brake, or a line to be drawn from Sandown Castle (*s*) to the said buoy, or until a qualified pilot (*o*) has come on board, display and keep displayed the usual signal for a pilot (*t*).

(2.) If a qualified pilot (*o*) is within hail, or is approaching, and within half a mile, and has a pilot flag (*u*) flying in his boat, the master (*n*) shall, by heaving to in proper time or shortening sail, or by any practicable means consistent with the safety of his ship, facilitate the pilot getting on board, and shall give the charge of piloting his ship to that pilot; or if there are two or more qualified

(*k*) Procedure, §§ 680-684; fine how applicable, §§ 699, 716.

(*l*) By byelaw under §§ 581, 582.

(*m*) § 586.

(*n*) Defined, § 742.

(*o*) § 586.

(*p*) So in Queen's printer's copy.

Should be "the westward."

(*q*) Under §§ 581, 582.

(*r*) §§ 603, 625, and Preliminary Note to this Part.

(*s*) Near Deal

(*t*) § 615.

(*u*) § 612, s. 1 (*c*).

pilots (*u*) offering at the same time, to such one of them as may, according to the regulations for the time being in force, be entitled or required to take charge of the ship.

(3.) If a master (*x*) fails (*y*) to comply with the provisions of this section, or any of them, he shall for each offence be liable to a fine not exceeding double the sum which might have been demanded for the pilotage of his ship (*z*), and the fine shall be paid to the Trinity House (*x*), and be carried to the account of the Trinity House Pilot Fund (*zz*).

625. The following ships, when not carrying passengers (*a*), shall, without prejudice to any general exemption under this Part of this Act (*b*), be exempted from compulsory pilotage in the London district (*c*), and in the Trinity House outport districts (*c*); (that is to say,)

(1.) Ships (*x*) employed in the coasting trade of the United Kingdom (*d*):

(2.) Ships (*x*) of not more than sixty tons burden:

(3.) Ships (*x*) trading (*e*) from any port (*x*) in Great Britain within the London district (*c*) or any of the Trinity House outport districts (*c*) to the port of Brest in France, or any port (*x*) in Europe north and east of Brest, or to the Channel Islands or Isle of Man:

(4.) Ships (*x*) trading (*e*) from the port of Brest, or any

(*u*) § 586.

(*x*) Defined, § 742.

(*y*) Includes refusal; § 742.

(*z*) Procedure, §§ 680-684.

(*zz*) § 630.

(*a*) A passenger must be under contractual obligation to the owner to pay a fare. Cf. the cases cited in note (*k*) to § 604.

(*b*) Cf. § 603, and notes; § 604 prevents the exemptions in § 603 applying to ships trading between ports in the British Islands, if they carry passengers.

(*c*) § 618, s. 1.

(*d*) Cf. *The Agricola* (1813), 2 W. Rob. 10; *The Lloyds or Sea Queen* (1863), Br. & L. 359; *The Winestead* (1895), P. 170. This exception does not apply to vessels whose main employment is foreign trade, though

carrying cargo from one port in the British Islands to another. Query whether *Courtney v. Cole* (1887), 19 Q. B. D. 447, is not inconsistent with these cases; see cf. *The Sutherland* (1887), 12 P. D. at p. 156.

(*e*) "Trading" was interpreted in *Courtney v. Cole* (1887), 19 Q. B. D. 447, to cover a vessel running on a line from Amsterdam and London to the East, while going between Amsterdam and London. The Divisional Court were inclined to confine Dr. Lushington's decisions in *The Agricola* and *The Sea Queen*, ante, to the coasting trade. The case of *The Sutherland* (1887), 12 P. D. 154, which decided that a vessel which, on a voyage from Liverpool to Hamburg met with an accident, and put into London, was trading from a port

Exemption from compulsory pilotage. 1854, s. 379. Order in Council, Dec. 21, 1871.

port (*f*) in Europe north and east of Brest, or from the Channel Islands or Isle of Man to any port (*f*) in Great Britain within the said London or Trinity House outport districts (*g*):

(5.) Ships navigating within (*h*) the limits of the port to which they belong (*i*).

Rates of Pilotage.

Rates of pilotage.
1854, s.
380.
35 & 36
Vict. c. 73,
s. 9.

Rates of Pilotage (Trinity House).

626.—(1.) Subject to any alteration to be made by the Trinity House (*k*) there shall continue to be paid to all Trinity House pilots, in respect of their pilotage services, such dues as are immediately before the commencement of this Act payable to them in respect of those services (*l*).

(2.) The Trinity House may by byelaw made under this Part of this Act (*k*) repeal or relax, as to the whole or any part of their district, the provisions of this Part of this Act restricting the demanding, receiving, offering to pay, or payment of any pilotage rates other than those which may be demanded by law (*m*) so far as to allow any pilot or class of pilots under their authority to demand or receive, and any master to offer or pay, any rate less than the rate which may be demanded by law.

627.—(1.) Subject to any alteration to be made by the

Pilotage dues for foreign ships for port of London.
1854, s.
381.

in Great Britain to a port north of Boulogne, and therefore was within this exemption, appears to have been decided without considering the Order in Council of December 21, 1871, the wording of which is incorporated in this Act. *Semble*, that under the wording of this Act *The Sutherland* was not within the exception, as Liverpool is not within the Trinity House outport districts, and the ship, if anything, was trading from Liverpool to Hamburg.

(*f*) Defined, § 742.

(*g*) § 618, s. 1.

(*h*) Interpreted in *The Stettin* (1863), Br. & L. 199, to mean simply "being within;" not that the navigation must be confined to that port. In *The Hankow* (1879), 4 P. D. 197, the ship was not exempt under this section, because she had passengers on board, or under § 603, because

London was not a place for which no provision had been made under the exemption in the Act of 1825. Section 604 did not apply to her, because she was coming from Australia. In the *General Steam Nav. Co. v. British and Colonial Co.* (1868), L. R. 3 Ex. 330; 4 Ex. 238, *The Thames* had passengers on board, and therefore was not within § 625 of this Act; and the court did not decide whether pilotage was compulsory on her within the port of London, but only that it was compulsory at Dungeness.

(*i*) § 13. Ships are registered at ports to which they do not regularly trade to get the benefit of compulsory pilotage.

(*k*) Under §§ 581, 582.

(*l*) Cf. § 582, s. 6, and Schedule XXI.

(*m*) § 592.

Trinity House (*n*), and notwithstanding anything before contained in this Part of this Act, there shall be paid in respect of all foreign ships trading to and from the port of London, and not exempt from pilotage (*o*):

(*a*) as to ships inwards, the full amount of pilotage dues for the distance piloted; and

(*b*) as to ships outwards, the full amount of dues for the distance required by law.

(2.) Payment of those pilotage dues shall be made to the chief officer of customs (*p*) in the port of London by the master (*p*) or other person having the charge of the ship, or by the consignees or agents thereof who have paid or made themselves liable to pay any other charge for the ship in the port of London.

(3.) Pilotage dues under this section may be recovered in the same manner as other pilotage dues are recoverable under this Part of this Act (*q*).

628.—(1.) Subject to any alteration to be made by the Trinity House (*r*), the chief officer of customs (*p*) shall, on receiving any pilotage dues in respect of foreign ships, give to the person paying the same a receipt in writing; and in the port of London the ship may be detained (*s*) until the receipt is produced to the proper officer of customs at that port.

Receipt and application of pilotage dues payable by foreign ships. 1854, ss. 382, 383.

(2.) Subject to any alteration to be made by the Trinity House (*r*), the chief officer of customs (*p*) shall pay over to the Trinity House (*p*) the pilotage dues received by him in respect of any foreign ship; and the Trinity House shall apply the same:

(*a*.) In the first place, in paying to any pilot (*p*) who may bring sufficient proof of his having had the charge of the ship such dues as would have been payable to him for the pilotage service if the ship had been a British ship (*t*), after deducting therefrom the poundage (*u*) due to the Trinity House: and

(*n*) Under §§ 581, 582.

(*o*) §§ 603, 625, and Preliminary Note to this Part.

(*p*) Defined, § 742.

(*q*) § 591.

(*r*) §§ 581, 582.

(*s*) § 692.

(*t*) § 626.

(*u*) § 630.

- (b.) In the second place, in paying to any unlicensed person who may bring sufficient proof of his having, in the absence of a licensed pilot, had the charge of the ship, such amount as the Trinity House may think proper, not exceeding the amount which would under similar circumstances have been payable to a licensed pilot (*x*), after deducting poundage (*y*): and
- (c.) Lastly, in paying over to the Trinity House Pilot Fund (*y*) the residue together with all poundage deducted as aforesaid (*y*).

Settle-
ment of
difference
as to
draught
of ship.
1854, s.
384.

629.—(1.) Whenever any difference arises between the master (*z*) and the qualified pilot (*a*) of any ship trading to or from the port of London as to her draught of water, the Trinity House shall, upon application by either party, made in the case of a ship inward bound, either within twelve hours after her arrival or at some time before she begins to discharge her cargo, and, in the case of a ship outward bound, before she quits her moorings, appoint some proper officer to measure the ship, and settle the difference accordingly.

(2.) There shall be paid to the officer who measures the ship, by the party against whom he decides, one guinea if the ship be below, and half a guinea if the ship be above, the entrance of the London Docks at Wapping.

*Pilotage
Fund.*

Pilot Fund (Trinity House).

Payments
to be made
to the pilot
fund.
1854, s.
385.

630.—(1.) Subject to any alteration to be made by the Trinity House (*b*), there shall continue to be paid to the Trinity House (*z*), and carried over to the Trinity House Pilot Fund:

- (a.) A poundage of sixpence in the pound upon the pilotage earnings of all pilots licensed by the Trinity House (*c*);
- (b.) A sum of three pounds three shillings to be paid on the first day of January in every year by every person licensed by the Trinity House to act as pilot in any

(*x*) § 626.

(*y*) § 630.

(*z*) Defined, § 742.

(*a*) § 586.

(*b*) §§ 581, 582.

(*c*) § 618.

district not under the superintendence of sub-commissioners, or in any part of that district (*d*).

(2.) If a qualified pilot (*e*) gives a false account of his earnings, or makes default in paying any sum due from him under this section, he shall for each offence be liable to a fine equal to double the amount payable (*f*), and shall further be liable, at the discretion of the Trinity House (*g*), to suspension or dismissal (*h*).

631. Subject to any prior charges subsisting thereon by virtue of any Act of Parliament or otherwise, the Trinity House Pilot Fund shall be chargeable in the first place with the payment of such expenses as the Trinity House (*g*) may duly incur in the performance of their duties in respect of pilots and pilotage; and after payment thereof shall (subject to any alteration to be made by the Trinity House) be administered by them for the benefit of those pilots licensed by them (*i*) after the first day of October, one thousand eight hundred and fifty-three, who are incapacitated for the performance of their duty by reason of age, infirmity, or accident, and of the widows and children of pilots so licensed, or of those incapacitated pilots only.

Applica-
tion of
fund.
1854, s.
386.

632.—(1.) The corporations of the Trinity Houses in the ports of Kingston-upon-Hull and Newcastle shall appoint sub-commissioners (not being more than seven nor fewer than three) for the examination of pilots in all districts in which they have, before the commencement of this Act, been used to make such appointments (*k*), and may, with the consent of Her Majesty in Council (*l*), but not otherwise, appoint like sub-commissioners for any other district situate within their jurisdiction.

Appoint-
ment of
sub-com-
missioners
by Trinity
Houses of
Hull and
Newcastle.
1854, s.
387.

(2.) A pilotage district which is at the commencement of this Act under the authority of any sub-commissioners appointed by either of the said corporations shall not be

(*d*) §§ 617, 618.

(*e*) § 586.

(*f*) Procedure, §§ 680-684; fine how applicable, §§ 699, 716.

(*g*) Defined, § 742.

(*h*) Appeal, § 610.

(*i*) § 618.

(*k*) Cf. *The Juno* (1876), 1 P. D. 135.

(*l*) § 738.

extended, except with the consent of Her Majesty in Council (*m*).

(3.) Sub-commissioners appointed or to be appointed under this section shall not be deemed to be pilotage authorities within the meaning of this Act (*n*), nor shall anything in this Act be held to confer upon the commissioners for regulating the pilotage of the port of Kingston-upon-Hull and of the river Humber any jurisdiction of a different nature or character from that which they have exercised before the commencement of this Act.

Saving for Liability of Owners (o) and Masters.

633 (*p*). An owner (*o*) or master (*q*) of a ship shall not be answerable to any person whatever for any loss or damage occasioned by the fault or incapacity of any qualified pilot (*r*) acting in charge of that ship within any district where the employment of a qualified pilot is compulsory. 1854, c. 388.

(*m*) § 738.

(*n*) § 573.

(*o*) Note to § 58.

(*p*) This section only protects the owners when, within a pilotage district, their ship is in charge of a pilot, whom they were bound to take on board within that district. Thus in *General Steam Nav. Co. v. British and Colonial Co.* (1868), L. R. 4 Ex. 238, as the employment of the pilot was compulsory at Dungeness, where he was taken on board, the owners were held protected, even if, at the place where the collision happened, they could not have been required to employ him. But if the pilot was taken on board where his employment was not compulsory, and it was not compulsory where the collision happened, the owner would

not be protected. Cf. *The Charlton* (1895), 72 L.T. 198, now under appeal. Cf. *The Stettin* (1863), Br. & Lush. 199, as explained by the P. C. in *The Lion* (1869), L. R. 2 P. C. 525. The policy of the Legislature is explained by Dr. Lushington, in *The Maria* (1839), 1 W. Rob. 95. This section applies to all cases where the employment of a pilot is compulsory, and to all ships, even though the law of the place of collision would not give such protection. *The Halley* (1868), L. R. 2 P. C. 193. Otherwise, if the pilot was not on board by compulsion of law to control the ship, but as adviser, as in the Suez Canal. *The Guy Mannering* (1882), 7 P. D. 132.

(*q*) Defined, § 742.

(*r*) § 586.

Lighthouses.

PART XI.

1854 = 17 & 18 Vict. c. 104.

1862 = 25 & 26 Vict c. 63.

Int. Act, 1889 = Interpretation Act, 1889 (52 & 53 Vict.
c. 63).

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1854 = 17 & 18 Vict. c. 104.

1862 = 25 & 26 Vict. c. 63.

Int. Act, 1889 = Interpretation Act, 1889 (52 & 53 Vict. c. 63).

PART XI.

LIGHTHOUSES (*a*).

General Management.

634.—(1.) Subject to the provisions of this Part of this Act, and subject also to any powers or rights now lawfully enjoyed or exercised by any person or body of persons having by law or usage authority over local lighthouses (*a*), buoys (*a*), or beacons (*a*), (in this Act referred to as “local lighthouse authorities,”) the superintendence and management of all lighthouses (*a*), buoys (*a*), and beacons (*a*) shall within the following areas be vested in the following bodies; namely,

- (*a*.) throughout England and Wales, and the Channel Islands (*b*), and the adjacent seas and islands, and at Gibraltar, in the Trinity House (*a*);
 - (*b*.) throughout Scotland and the adjacent seas and islands, and the Isle of Man, in the Commissioners of Northern Lighthouses (*c*); and
 - (*c*.) throughout Ireland and the adjacent seas and islands, in the Commissioners of Irish Lights (*a*),
- and those bodies are in this Act referred to as the general

(*a*) Defined, § 742.

(*b*) See restrictions in § 669.

(*c*) § 668.

Management of Lighthouses.

Management of lighthouses, buoys, and beacons.
1854, a.
389.

lighthouse authorities and those areas as lighthouse areas.

(2.) Subject to the provisions of this Part of this Act, the general lighthouse authorities (*d*) shall respectively continue to hold and maintain all property now vested in them in that behalf in the same manner and for the same purposes as they have hitherto held and maintained the same.

Returns
and infor-
mation to
Board of
Trade.
1854, s.
393.

635. The general lighthouse authorities (*d*), and their respective officers, shall at all times give to the Board of Trade all such returns, explanations, or information, in relation to the lighthouses, buoys, or beacons within their respective areas, and the management thereof, as the Board require.

Power of
Board of
Trade to
inspect on
complaint
made.
1854, s.
393.

636.—(1.) The Board of Trade may, on complaint that any lighthouse (*e*), buoy (*e*), or beacon (*e*) under the management of any of the general lighthouse authorities (*d*), or any work connected therewith, is inefficient or improperly managed or is unnecessary, authorize any persons appointed by them to inspect the same.

(2.) A person so authorized may inspect the same accordingly, and make any inquiries in respect thereof, and of the management thereof, which he thinks fit; and all officers and others having the care of any such lighthouses (*e*), buoys (*e*), or beacons (*e*), or concerned in the management thereof, shall furnish any information and explanations in relation thereto which the person inspecting requires.

Inspection
by Trinity
House.
1854, s.
392.

637. The Trinity House (*e*), and any of their engineers, workmen, and servants, may at all times enter any lighthouse (*e*) within any of the lighthouse areas (*d*) for the purpose of viewing their condition or otherwise for the purposes of this Act.

Construction of Lighthouses (e), &c.

General
powers of

638. A general lighthouse authority (*d*) shall, within their

(*d*) Defined, § 634, s. 1.

(*e*) Defined, § 742.

area (*f*) but subject, in the case of the Commissioners of Northern Lighthouses (*g*) and the Commissioners of Irish Lights (*h*), to the restrictions enacted in this Part of this Act (*i*), have the following powers (in this Act referred to as lighthouse powers), namely, powers—

- (*a.*) to erect or place any lighthouse (*h*), with all requisite works, roads, and appurtenances :
- (*b.*) to add to, alter, or remove any lighthouse (*h*) :
- (*c.*) to erect or place any buoy (*h*) or beacon (*h*), or alter or remove any buoy (*h*) or beacon (*h*) :
- (*d.*) to vary the character of any lighthouse (*h*) or the mode of exhibiting lights therein.

639.—(1.) A general lighthouse authority (*f*) may take and purchase any land which may be necessary for the exercise of their lighthouse powers (*k*), or for the maintenance of their works, or for the residence of the light keepers, and for that purpose the Lands Clauses Acts (*l*) shall be incorporated with this Act and shall apply to all lighthouses (*h*) to be constructed and all land to be purchased under the powers thereof.

(2.) A general lighthouse authority (*f*) may sell any land belonging to them.

640.—(1.) When the Commissioners of Northern Lighthouses (*g*) or the Commissioners of Irish Lights (*h*) propose to exercise any of their lighthouse powers (*k*), they shall submit a scheme to the Trinity House (*h*) specifying the mode in which they propose to exercise the power, and their reasons for wishing to exercise the same, and they shall not exercise any such power until they have so submitted a scheme to the Trinity House (*h*) and obtained the sanction of the Board of Trade in manner provided by this Act (*m*).

(2.) The Trinity House (*h*) shall take into consideration any scheme so submitted to them, and shall make a report, stating their approval or rejection of the scheme with or

(*f*) Defined, § 634, s. 1.

(*g*) § 668.

(*h*) Defined, § 742.

(*i*) § 610.

(*k*) § 638.

(*l*) Int. Act, 1889, c. 23.

(*m*) Sub-s. 3.

lighthouse authorities. 1854, s. 404.
50 & 51 Vict. c. 62, s. 5.

Powers as to land. 1854, ss. 404, 412.

Restrictions on exercise of lighthouse powers by Commissioners. 1854, ss. 405, 406, 407.

without modification, and shall send a copy of the report to the commissioners by whom the scheme is submitted (*o*).

(3.) For the purpose of obtaining the sanction of the Board of Trade to any scheme so submitted to the Trinity House (*p*), the Trinity House (*p*) shall send a copy of the scheme and of their report thereon, and of any communications which have passed with reference thereto between them and the commissioners by whom the scheme is submitted (*o*), to the Board of Trade, and that Board may give any directions they think fit with reference to the scheme, and may grant or withhold their sanction either wholly or subject to any conditions or modifications they think fit.

(4.) The commissioners by whom a scheme is submitted (*o*) may, before a decision on the scheme is given by the Board of Trade, forward either to that Board or to the Trinity House (*p*) any suggestions or observations with respect to the scheme or the report of the Trinity House (*p*) thereon, and the Board of Trade in giving any decision on the scheme shall consider those suggestions or observations.

(5.) The decision of the Board of Trade with reference to any scheme shall be communicated by that Board to the Trinity House (*p*), and by the Trinity House to the commissioners by whom the scheme is submitted (*o*), and those commissioners shall act in conformity with the decision.

Power of
Trinity
House to
direct
lighthouse
works to
be done.
1854, ss.
408, 409.

641.—(1.) The Trinity House (*p*) may, with the sanction of the Board of Trade, direct the Commissioners of Northern Lighthouses (*q*) or the Commissioners of Irish Lights (*p*)—

(*a.*) to continue any lighthouse (*p*), buoy (*p*), or beacon (*p*):

(*b.*) to erect or place any lighthouse (*p*), buoy (*p*), or beacon (*p*), or add to, alter, or remove any existing lighthouse, buoy, or beacon:

(*c.*) to vary the character of any lighthouse (*p*) or the mode of exhibiting lights therein:

and the commissioners shall be bound within a reasonable time to obey any directions so given and sanctioned.

(*o*) Sub-s. 1.

(*p*) Defined, § 742.

(*q*) § 668.

(2.) For the purpose of obtaining the sanction of the Board of Trade to any direction under this section, the Trinity House (*r*) shall make a written application to the Board of Trade, showing fully the work which they propose to direct and their reasons for directing the same, and shall give notice in writing of the application to the commissioners to whom they propose to give the direction at their principal office in Edinburgh or Dublin, as the case may be.

(8.) Before the Board of Trade decide on any such application, an opportunity shall be given to the commissioners to whom it is proposed to give the direction for making any representation which they may think fit to make with regard to the application to the Board of Trade or the Trinity House (*r*).

642. Where any improved light, or any siren, or any description of fog signal has been added to an existing lighthouse (*r*), the light, siren, or signal may, for the purposes of this Part of this Act, be treated as if it were a separate lighthouse.

Additions to light-houses. 50 & 51 Vict. c. 62, s. 5.

Light Dues (s).

643. Subject to any alterations to be made under the powers contained in this Part of this Act, a general light-house authority (*t*) shall, in respect of any lighthouses (*r*), buoys (*r*), or beacons (*r*) which at the commencement of this Act are under their management, continue to levy dues (in this Act called light dues), subject to the same limitations as to the amount thereof as are in force at the commencement of this Act (*u*); and those light dues shall be payable in respect of all ships (*r*) whatever, except ships belonging to Her Majesty, and ships exempted from payment thereof in pursuance of this Act (*x*).

Continuance of light dues. 1854, s. 396.

644. On the completion of any lighthouse (*r*), buoy (*r*),

Dues for new light-houses. Council made under the old sections corresponding to §§ 644, 645 of this Act. 1854, s. 410.

(*r*) Defined, § 742.

(*s*) Defined, § 643.

(*t*) Defined, § 31, s. 1.

(*u*) These limitations appear to be contained in the various Orders in

Council made under the old sections corresponding to §§ 644, 645 of this Act.

(*x*) § 646, s. (a.).

or beacon (*y*), Her Majesty may, by Order in Council (*z*), fix dues to be paid in respect thereof in the case of any ship (*y*) which passes the same, or derives benefit therefrom, and the dues so fixed shall, for the purposes of this Act, be deemed to be light dues (*a*).

Revision of light dues by Order in Council. 1854, s. 397.

645.—(1.) Her Majesty may, by Order in Council (*z*), increase, vary, or reduce any light dues (*a*) payable in respect of any lighthouse (*y*), buoy (*y*), or beacon (*y*) for the time being under the management of a general lighthouse authority (*b*).

(2.) Provided that the light dues (*a*) payable in respect of a lighthouse (*y*), buoy (*y*), or beacon (*y*) which was existing on the first day of May, one thousand eight hundred and fifty-five, shall not be made to exceed the amount which at any period previous to that date was received in respect thereof, or to which they might have been raised during any part of that period.

Regulation of light dues by lighthouse authorities. 1854, s. 398.

646.—(1.) A general lighthouse authority (*b*) may, with the consent of Her Majesty given by Order in Council (*z*),

(*a*.) exempt any ships (*y*) or any classes of ships (*y*) from the payment of light dues (*a*) receivable by that authority (*b*), and annex any terms or conditions to those exemptions;

(*b*.) alter the times, places, and modes at and in which the light dues (*a*) receivable by the authority are payable;

(*c*.) substitute any other dues or class of dues, whether by way of annual payment or otherwise, in respect of any ships (*y*) or classes of ships (*y*), for the dues payable to that authority for the time being.

(2.) Nothing in this Act shall affect the provisions of the Shipping Dues Exemption Act, 1867 (*c*), or any Act amending the same (*d*).

(*y*) Defined, § 742.

(*z*) § 738.

(*a*) Defined, § 643.

(*b*) Defined, § 634, s. 1.

(*c*) 30 & 31 Vict. c. 15. It abolished

a large number of then existing local exemptions from dues.

(*d*) The only amending Act appears to be the Statute Law Revision Act, 1884, which repeals § 6.

647. Tables of all light dues (*e*), and a copy of the regulations for the time being in force in respect thereof, shall be posted up at all custom houses in the United Kingdom, and for that purpose each of the general lighthouse authorities (*f*) shall furnish copies of all such tables and regulations to the Commissioners of Customs in London, and to the chief officers of customs (*g*) resident at all places where light dues (*e*) are collected on account of that lighthouse authority (*f*); and those copies shall be posted up by the Commissioners of Customs at the Custom House in London, and by the chief officers of customs (*g*) at the custom houses of the places at which they are respectively resident.

Publication of light dues and regulations. 1854, s. 399.

648.—(1.) All light dues (*e*) coming into the hands of any general lighthouse authority (*f*) under this Act shall be carried to the Mercantile Marine Fund (*h*).

Application and collection of light dues. 1854, ss. 402, 403.

(2.) Every person appointed to collect light dues (*e*) by any of the general lighthouse authorities (*f*) shall collect all light dues (*e*) payable at the port (*g*) at which he is so appointed, whether they are collected on account of the authority by whom he was appointed or on account of one of the other general lighthouse authorities (*f*).

(3.) Any person so appointed to collect light dues (*e*) shall pay over to the general lighthouse authority (*f*) by whom he was appointed, or as that authority directs, the whole amount of light dues (*e*) received by him; and the authority receiving the dues shall keep accounts thereof, and shall cause the dues to be remitted to Her Majesty's Paymaster-General in such manner as the Board of Trade direct.

649.—(1.) The following persons shall be liable to pay light dues (*e*) for any ship (*g*) in respect of which light dues (*e*) are payable, namely,—

Recovery of light dues. 1862, ss. 44, 45.

(a.) the owner (*i*) or master (*g*); or

(b.) such consignees or agents thereof as have paid, or

(*e*) Defined, § 643.

(*f*) Defined, § 634, s. 1.

(*g*) Defined, § 742.

(*h*) § 676, s. 1 (*i*).

(*i*) Note to § 58.

made themselves liable to pay, any other charge on account of the ship in the port (*k*) of her arrival or discharge ;

and those dues may be recovered in the same manner as fines of a like amount under this Act (*l*).

(2.) Any consignee or agent (not being the owner (*m*) or master (*k*) of the ship (*k*)) who is hereby made liable for the payment of light dues (*n*) in respect of any ship, may, out of any moneys received by him on account of that ship or belonging to the owner (*m*) thereof, retain the amount of all light dues (*n*) paid by him, together with any reasonable expenses he may have incurred by reason of the payment of the dues or his liability to pay the dues.

Distress
on ship for
light dues.
1854, s.
401.

650.—(1.) If the owner (*m*) or master (*k*) of any ship (*k*) fails (*o*), on demand of the authorized collector (*p*), to pay the light dues (*n*) due in respect thereof, that collector may, in addition to any other remedy which he or by the authority by whom he is appointed is entitled to use (*q*), enter upon the ship, and distrain the goods, guns, tackle, or any thing belonging to, or on board, the ship (*k*), and detain that distress until the light dues (*n*) are paid.

(2.) If payment of the light dues (*n*) is not made within the period of three days next ensuing the distress, the collector (*p*) may, at any time during the continuance of the non-payment, cause the distress to be appraised by two sufficient persons or sworn appraisers, and thereupon sell the same, and apply the proceeds in payment of the light dues (*n*) due, together with all reasonable expenses incurred by him under this section, paying the surplus (if any), on demand, to the owner (*m*) or master (*k*) of the ship.

Receipt
for light
dues.
1854, s.
400.

651. A receipt for light dues (*n*) shall be given by the person appointed to collect (*p*) the same to every person paying the same, and a ship (*k*) may be detained (*r*) at any port (*k*) where light dues (*n*) are payable in respect of any

(*k*) Defined, § 742.

(*l*) §§ 680-684.

(*m*) Note to § 58.

(*n*) § 643.

(*o*) Includes refusal ; § 742.

(*p*) § 648.

(*q*) § 649, s. 1.

(*r*) § 692.

ship, until the receipt for the light dues (*r*) is produced to the proper officer of customs.

Local Lighthouses (s).

652.—(1.) It shall be the duty of each of the general lighthouse authorities (*t*), or of any persons authorized by that authority for the purpose, to inspect all lighthouses (*s*), buoys (*s*), and beacons (*s*) situate within their area, but belonging to or under the management of any local lighthouse authority (*t*), and to make such inquiries in respect thereof and of the management thereof as they think fit.

Inspection of local light-houses. 1862, s. 48.

(2.) All officers and others having the care of any such local (*t*) lighthouses (*s*), buoys (*s*), or beacons (*s*), or concerned in the management thereof, shall furnish all such information and explanations concerning the same as the general lighthouse authority (*t*) require.

(3.) All local lighthouse authorities (*t*) and their officers shall at all times give to the general lighthouse authority (*t*) all such returns, explanations, or information concerning the lighthouses (*s*), buoys (*s*), and beacons (*s*) under their management and the management thereof, as the general lighthouse authority (*t*) require.

(4.) The general lighthouse authority (*t*) shall communicate to each local lighthouse authority (*t*) the results of the inspection of their lighthouses (*s*), buoys (*s*), and beacons (*s*), and shall also make general reports of the results of their inspection of local (*t*) lighthouses (*s*), buoys (*s*), and beacons (*s*) to the Board of Trade; and those reports shall be laid before Parliament.

653.—(1.) A general lighthouse authority (*t*) may, within their area (*t*), with the sanction of the Board of Trade, and after giving due notice of their intention, direct a local lighthouse authority (*t*) to lay down buoys (*s*), or to remove or discontinue any lighthouse (*s*), buoy (*s*), or beacon (*s*), or to make any variation in the character of any lighthouse (*s*), buoy (*s*), or beacon (*s*), or in the mode of

Control of local light-house authorities by general lighthouse authorities. 1854, ss. 394, 395. 1862, s. 48 (5).

(*r*) § 643.
(*s*) Defined, § 742.

(*t*) Defined, § 634, s. 1.

exhibiting lights in any lighthouse (*u*), buoy (*u*), or beacon (*u*).

(2.) A local lighthouse authority (*x*) shall not erect or place any lighthouse (*u*), buoy (*u*), or beacon (*u*), or remove or discontinue any lighthouse, buoy, or beacon (*u*), or vary the character of any lighthouse, buoy, or beacon (*u*), or the mode of exhibiting lights in any lighthouse, buoy, or beacon (*u*), without the sanction of the general lighthouse authority (*x*).

(3.) If a local lighthouse authority (*x*) having power to erect, place, or maintain any lighthouse, buoy, or beacon (*u*), at any place within a lighthouse area (*x*), fail to do so, or fail to comply with the direction of a general lighthouse authority (*x*) under this section with respect to any lighthouse, buoy, or beacon (*u*), Her Majesty may, on the application of the general lighthouse authority (*u*), by Order in Council (*y*), transfer any powers (*z*) of the local lighthouse authority (*x*) with respect to that lighthouse, buoy, or beacon (*u*), including the power of levying dues, to the general lighthouse authority (*x*).

(4.) On the making of any Order in Council (*y*) under this section, the powers transferred shall be vested in the general lighthouse authority (*x*) to whom they are transferred, and the lighthouse, buoy, or beacon (*u*) in respect of which the Order is made, and the dues (*a*) leviable in respect thereof, shall respectively be subject to the same provisions as those to which a lighthouse (*u*), buoy (*u*), or beacon (*u*) provided by that general lighthouse authority (*x*) under this Part of this Act (*b*), and the light dues leviable under this Part of this Act (*a*) are subject.

(5.) Nothing in this section shall apply to local buoys (*u*) and beacons (*u*) placed or erected for temporary purposes.

Surrender
of local
light-
houses.
1854, s.
413.

654.—(1.) A local lighthouse authority (*x*) may, if they think fit, surrender or sell any lighthouse (*u*), buoy (*u*), or beacon (*u*) held by them to the general lighthouse

(*u*) Defined, § 742.

(*x*) Defined, § 634, s. 1.

(*y*) § 738.

(*z*) § 638.

(*a*) §§ 643–651.

(*b*) §§ 638–642.

authority (c) within whose area (c) it is situated, and the general lighthouse authority (c) may, with the consent of the Board of Trade, accept or purchase the same.

(2.) The purchase money for any lighthouse (d), buoy, or beacon (d) so sold to a general lighthouse authority (c) shall be paid out of the Mercantile Marine Fund (e).

(3.) On the surrender or sale of a lighthouse (d), buoy, or beacon (d) under this section to a general lighthouse authority (c),—

(a.) the lighthouse (d), buoy, or beacon (d) surrendered or sold shall, together with its appurtenances, become vested in the general lighthouse authority (c), and shall be subject to the same provisions as if it had been provided by that authority under this Part of this Act (f); and

(b.) the general lighthouse authority (c) shall be entitled to receive either the dues which were leviable in respect of the lighthouse (d), buoy, or beacon (d) surrendered or sold at the time of the surrender or sale (g), or, if Her Majesty so directs by Order in Council (h), such dues as may be fixed by Order in Council (h), and those dues shall be subject to the same provisions and regulations as light dues (g) for a lighthouse (d) completed by a general lighthouse authority (c) under this Act (i).

655.—(1.) If any lighthouse (d), buoy, or beacon (d) is erected or placed, or reconstructed, repaired, or replaced by a local lighthouse authority (c), Her Majesty may, on the application of that authority, by Order in Council (h), fix such dues to be paid to that authority in respect of every ship (d) which enters the port (d) or harbour (d) under the control of that authority (c), or the estuary in which the lighthouse (d), buoy, or beacon (d) is situate, and which passes the lighthouse (d), buoy, or beacon (d) and derives benefit therefrom, as Her Majesty may think reasonable.

(c) Defined, § 634, s. 1.

(d) Defined, § 742.

(e) § 677, s. 1.

(f) §§ 638–642.

(g) § 643.

(h) § 738.

(i) §§ 643–651.

Light dues
for local
lights.
1862, ss.
46, 47.

(2.) Any dues fixed under this section (in this Act referred to as local light dues) shall be paid by the same persons and may be recovered in the same manner as light dues under this Part of this Act (*k*).

(3.) Her Majesty may, by Order in Council (*l*), reduce, alter, or increase any local light dues (*m*), so that those dues, so far as possible, may be sufficient and not more than sufficient for the payment of the expenses incurred by the local lighthouse authority (*n*) in respect of the lighthouses (*o*), buoys, or beacons (*o*) for which the dues are levied (*p*).

Applica-
tion of
local light
dues.
1862, s. 47.

656.—(1.) All local light dues (*m*) shall be applied by the authority by whom they are levied (*m*) for the purpose of the construction, placing, maintenance, and improvement of the lighthouses (*o*), buoys, and beacons (*o*) in respect of which the dues are levied (*m*), and for no other purpose.

(2.) The local lighthouse authority (*n*) to whom any local light dues (*m*) are paid shall keep a separate account of the receipt and expenditure of those dues, and shall, once in every year, or at such other time as the Board of Trade may determine, send a copy of that account to the Board of Trade, and shall send the same in such form and shall give such particulars in relation thereto as the Board of Trade require.

Reduction
of local
light dues.
39 & 40
Vict. c. 27,
s. 2.

657. A local lighthouse authority (*n*) may, with the consent of Her Majesty in Council (if they have not otherwise power to do so) reduce all or any dues receivable by them in respect of lighthouses (*o*), buoys, and beacons (*o*).

Expenses of General Lighthouse Authorities (n).

Payment
of light-
house ex-
penses out
of Mercan-
tile Marine
Fund.
1854, s.
418 (3).

658. The expenses incurred by the general lighthouse authorities (*n*) in the works and services of lighthouses (*o*), buoys, and beacons (*o*) under this Part of this Act (*q*), or in the execution of any works necessary or expedient for the

(*k*) §§ 649, 650.

(*l*) § 738.

(*m*) § 655, s. 2.

(*n*) Defined, § 634, s. 1.

(*o*) Defined, § 742.

(*p*) § 655, s. 1.

(*q*) §§ 638-642.

purpose of permanently reducing the expense of those works and services, shall be paid out of the Mercantile Marine Fund (r).

659.—(1.) Her Majesty may by Order in Council (s) fix the establishments to be maintained by each of the general lighthouse authorities (t) on account of the services of light-houses (u), buoys, and beacons (u), or the annual or other sums to be paid out of the Mercantile Marine Fund (r) in respect of those establishments. Establishments of general lighthouse authorities. 1854, s. 420.

(2.) If it appears that any part of the establishments of the general lighthouse authorities (t) is maintained for other purposes as well as for the purposes of their duties as general lighthouse authorities (t), Her Majesty may by Order in Council (s) fix the portion of the expense of those establishments to be paid out of the Mercantile Marine Fund (r).

(3.) An increase of any establishment or part of an establishment fixed under this section shall not be made without the consent of the Board of Trade.

660.—(1.) An expense of a general lighthouse authority (t) in respect of the services of lighthouses (u), buoys, and beacons (u) shall not be paid out of the Mercantile Marine Fund (x), or allowed in account, unless either it has been allowed as part of the establishment expenses under this Act (y), or an estimate or account thereof has been approved by the Board of Trade (z). Estimates or accounts of expenses sent to Board of Trade. 1854, ss. 422, 423.

(2.) For the purpose of approval by the Board of Trade, each of the general lighthouse authorities (t) shall submit to that Board an estimate of all expenses to be incurred by them in respect of lighthouses (u), buoys, or beacons (u), other than expenses allowed under this Act on account of their establishments (y), or, in case it is necessary in providing for any sudden emergency to incur any such expense without waiting for the sanction of an estimate, shall as

(r) § 677, s. (i).

(s) § 738.

(t) Defined, § 634, s. 1.

(u) Defined, § 742.

(x) § 677, s. (i).

(y) § 659, s. 1.

(z) § 660, s. 2.

soon as possible submit to the Board of Trade a full account of the expense incurred.

(3.) The Board of Trade shall consider any estimates and accounts so submitted to them, and may approve them either with or without modification.

Advances
by Treas-
ury for
lighthouse
expenses.
1854, s.
424.

661.—(1.) For the purpose of the construction and repair of lighthouses (*a*), and of other extraordinary expenses connected with lighthouses (*a*), buoys, and beacons (*a*), the Treasury (*b*) may, upon the application of the Board of Trade, advance out of the growing produce of the Consolidated Fund such sums, and upon such terms and at such rate of interest, as they think fit, and pay the same into the Mercantile Marine Fund (*c*), but the total amount due in respect of any such advances shall not at any one time exceed two hundred thousand pounds.

(2.) Where the Treasury (*b*) advance any sum under this section, that sum and the interest thereon shall be a charge upon the Mercantile Marine Fund (*d*), and upon any dues, rates, fees, or other payments payable thereto (*e*), and the Board of Trade shall make such provision for the repayment thereof out of that fund either by way of sinking fund or otherwise as the Treasury require.

(3.) A charge under this section for the purpose of an advance by the Treasury shall not prevent the reduction of any dues, rates, fees, or other payments payable to the Mercantile Marine Fund, if the reduction is sanctioned by the Treasury (*f*).

Mortgage
of Mercan-
tile
Marine
Fund for
lighthouse
expendi-
ture.
1854, s.
425.

662.—(1.) The Board of Trade may mortgage the Mercantile Marine Fund (*c*) and any dues, rates, fees, or other payments payable thereto (*e*), or any part thereof, for the purpose of the construction and repair of lighthouses (*a*) or other extraordinary expenses connected with the services of lighthouses (*a*), buoys, and beacons (*a*).

(2.) Any mortgage under this section shall be made in

(*a*) Defined, § 742.

(*b*) Int. Act, 1889, § 12, s. 2.

(*c*) §§ 676–679.

(*d*) § 738.

(*e*) § 675, s. (4), cf. § 648.

(*f*) §§ 645, 657.

such form and executed in such manner as the Board of Trade may direct.

(8.) A person lending money on a mortgage under this section shall not be bound to inquire as to the purpose for which the money is raised or the manner in which it is applied.

663.—(1.) The Public Works Loan Commissioners may, Advances by Public Works Loan Commissioners. 1854, a. 426. for the purpose of the construction and repair of light-houses (*h*) or other extraordinary expenses connected with the service of lighthouses (*h*), buoys, and beacons (*h*), advance money upon mortgage of the Mercantile Marine Fund (*i*), and the several dues, rates, fees, and payments to be carried thereto under this Act (*k*), or any of them, or any part thereof, without requiring any further security than that mortgage.

(2.) Notwithstanding anything in this Act, every mortgage so made to the Public Works Loan Commissioners shall be made in accordance with the Acts regulating loans by the Public Works Loan Commissioners (*l*).

(3.) An advance by the Public Works Loan Commissioners shall not prevent any lawful reduction (*m*) of any dues, rates, fees, or other payments payable to the Mercantile Marine Fund (*k*) if that reduction is assented to by the Public Works Loan Commissioners.

664. Each of the general lighthouse authorities (*n*) shall Accounts of general lighthouse authorities. 1854, a. 427. account to the Board of Trade for their receipts from light dues (*k*) and for their expenditure in respect of expenses paid out of the Mercantile Marine Fund (*o*), in such form, and at such times, and with such details, explanations, and vouchers, as the Board of Trade require, and shall, when required by that Board, permit all books of accounts kept by or under their respective direction to be inspected and examined by such persons as that Board appoint for that purpose.

(*h*) Defined, § 742.

(*i*) §§ 676–679.

(*k*) § 675, a. (*i*), cf. § 643.

(*l*) 38 & 39 Vict. c. 89; 42 & 43 Vict. c. 77, ss. 2–4; 44 & 45 Vict. c.

18, ss. 7–9; 49 & 50 Vict. c. 45, a. 30; 55 & 56 Vict. c. 61, a. 2.

(*m*) §§ 645, 657.

(*n*) Defined, § 634, a. 1.

(*o*) § 658, cf. § 676, a. (*i*).

Power to
grant
pensions.
1854, s.
421.

665.—(1.) A general lighthouse authority (*p*) may, with the sanction of the Board of Trade, grant superannuation allowances or compensation to persons whose salaries are paid out of the Mercantile Marine Fund (*q*) on their discharge or retirement.

(2.) No superannuation allowance or compensation granted under this section to a person shall exceed the proportion of his salary which may be granted to a person in the public civil service under the Acts relating to superannuation allowances or compensation for the time being in force (*r*).

Offences in connection with Lighthouses (s), &c.

Injury to
light-
houses, &c.
1854, s.
414.

666.—(1.) A person (*t*) shall not wilfully or negligently—
(a.) injure any lighthouse (*s*) or the lights exhibited therein, or any buoy or beacon (*s*);

(b.) remove, alter, or destroy any light ship, buoy, or beacon (*s*); or

(c.) ride by, make fast to, or run foul of any light ship or buoy (*s*).

(2.) If any person (*t*) acts in contravention of this section, he shall, in addition to the expenses of making good any damage so occasioned, be liable for each offence to a fine not exceeding fifty pounds (*u*).

Preven-
tion of
false
lights.
1854, ss.
415, 416.

667.—(1.) Whenever any fire or light is burnt or exhibited at such place or in such manner as to be liable to be mistaken for a light proceeding from a lighthouse (*s*), the general lighthouse authority (*p*) within whose area (*p*) the place is situate, may serve a notice upon the owner of the place where the fire or light is burnt or exhibited, or on the person having the charge of the fire or light, directing that owner or person, within a reasonable time to be specified in the notice, to take effectual means for

(*p*) Defined, § 634, s. 1.

(*q*) § 676, s. (i.), of § 658.

(*r*) The Superannuation Act (22 Vict. c. 26, s. 2) fixes the ordinary rate of superannuation allowance; and § 10 provides that no allowance is to be made to persons under sixty

years of age, except in case of infirmity.

(*s*) Defined, § 742.

(*t*) Includes corporations; Int. Act, 1889, § 2.

(*u*) Procedure, §§ 680-684; fine how applicable, §§ 699, 716.

extinguishing or effectually screening the fire or light, and for preventing for the future any similar fire or light.

(2.) The notice may be served either personally or by delivery of the same at the place of abode of the person to be served, or by affixing the same in some conspicuous spot near to the fire or light to which the notice relates.

(3.) If any owner or person (*x*) on whom a notice is served under this section fails (*y*), without reasonable cause, to comply with the directions contained in the notice, he shall be guilty of a common nuisance (*z*), and, in addition to any other penalties or liabilities he may incur, shall for each offence be liable to a fine not exceeding one hundred pounds (*a*).

(4.) If any owner or person (*x*) on whom a notice under this section is served (*b*) neglects for a period of seven days to extinguish or effectually screen the fire or light mentioned in the notice, the general lighthouse authority (*c*) may, by their servants or workmen, enter upon the place where the fire or light is, and forthwith extinguish the same, doing no unnecessary damage; and may recover the expenses incurred by them in so doing from the owner or person on whom the notice has been served in the same manner as fines may be recovered under this Act (*a*).

Commissioners of Northern Lighthouses.

668.—(1.) The persons holding the following offices shall be a body corporate under the name of the Commissioners of Northern Lighthouses; that is to say:—

- (*a*.) the Lord Advocate and the Solicitor-General for Scotland;
- (*b*.) the lords provosts of Edinburgh, Glasgow, and Aberdeen, and the provosts of Inverness and Campbeltown;
- (*c*.) the eldest bailies of Edinburgh and Glasgow;
- (*d*.) the sheriffs of the counties of the Lothians and

(*x*) Includes corporations; Int. Act, 1849, §§ 2, 19.

(*y*) Includes refusal; § 742.

(*z*) The remedy is by indictment. Cf. *per* Erle, C.J., in *R. v. Crawshaw*

(1860), Bell's C. C. p. 1, 303.

(*a*) Procedure, §§ 680-684; how applicable, §§ 699, 716.

(*b*) Sub-s. 1.

(*c*) Defunct, § 634, s. 1.

Peebles, Lanark, Renfrew and Bute, Argyll, Inverness, Elgin and Nairn, Ross, Cromarty and Sutherland, Caithness, Orkney and Shetland, Aberdeen, Kincardine and Banff, Ayr, Fife and Kinross, Dumfries and Galloway; and

(e.) any persons elected under this section.

(2.) The Commissioners shall have a common seal; and any five of them shall constitute a quorum, and shall have power to do all such matters and things as might be done by the whole body.

(3.) The Commissioners may elect the provost or chief magistrate of any royal or parliamentary burgh on or near any part of the coasts of Scotland and the sheriff of any county abutting on those coasts to be a member of their body.

Provision as to Channel Islands.

Restriction
on exercise
of powers
in Channel
Islands.
1854, s.
411.

669.—(1.) The powers of the Trinity House under this Part of this Act (*d*) with respect to lighthouses, buoys (*e*), or beacons (*e*) already erected or placed, or hereafter to be erected or placed, in the islands of Guernsey or Jersey (other than their powers with respect to the surrender (*f*) or purchase (*f*) of local lighthouses (*g*), buoys, and beacons (*e*), and the prevention of false lights (*h*)) shall not be exercised without the consent of Her Majesty in Council.

(2.) Dues for any lighthouse, buoy, or beacon erected or placed in or near the islands of Guernsey, Jersey, Sark, or Alderney shall not be taken in the islands of Guernsey or Jersey without the consent of the States of those Islands respectively.

Lighthouses, &c., in Colonies.

Dues for
colonial
light-
houses, &c.
18 & 19
Vict c. 91,
ss. 2 & 3.

670.—(1.) Where any lighthouse (*e*), buoy, or beacon (*e*) has, either before or after the passing of this Act, been erected or placed on or near the coasts of any British possession (*i*) by or with the consent of the legislature (*k*)

(*d*) § 634.

(*e*) Defined, § 742.

(*f*) § 654.

(*g*) Defined, § 634, s. 1.

(*h*) § 657.

(*i*) Int. Act, 1889, § 18, s. 2.

(*k*) Ibid. s. 7.

of that possession, Her Majesty may by Order in Council (*l*) fix such dues (in this Act referred to as colonial light dues) to be paid in respect of that lighthouse (*m*), buoy, or beacon (*m*) by the owner (*n*) or master (*m*) of every ship (*m*) which passes the same and derives benefit therefrom, as Her Majesty may deem reasonable, and may by like order increase, diminish, or repeal such dues, and those dues shall from the time mentioned in the Order be leviable throughout Her Majesty's dominions.

(2.) Colonial light dues (*o*) shall not be levied in any British possession (*p*) unless the legislature (*q*) of that possession has by address to the Crown, or by Act or Ordinance duly passed, signified its opinion that the dues ought to be levied.

671.—(1.) Colonial light dues (*o*) shall in the United Kingdom be collected and recovered so far as possible as light dues are collected and recovered under this Part of this Act (*r*).

Collection and recovery of colonial light dues. 18 & 19 Vict. c. 91, s. 4.

(2.) Colonial light dues (*o*) shall in each British possession (*p*) be collected by such persons as the Governor (*s*) of that possession may appoint for the purpose, and shall be collected by the same means, in the same manner, and subject to the same conditions so far as circumstances permit, as light dues under this Part of this Act (*r*), or by such other means, in such other manner, and subject to such other conditions as the legislature (*q*) of the possession (*p*) direct.

672. Colonial light dues (*o*) levied under this Act shall be paid over to Her Majesty's Paymaster-General at such times and in such manner as the Board of Trade direct, and shall be applied, paid, and dealt with by him for the purposes authorized by this Act (*t*), in such manner as that Board direct.

Payment of colonial light dues to Paymaster-General. 18 & 19 Vict. c. 91, s. 5.

673. Colonial light dues (*o*) shall, after deducting the

Application of

(*l*) § 738.

(*m*) Defined, § 742.

(*n*) § 58, and notes.

(*o*) § 670, s. 1.

(*p*) Int. Act, 1889, § 18, s. 2.

(*q*) Int. Act, 1889, § 18, s. 7.

(*r*) §§ 649-651.

(*s*) Int. Act, 1889, § 18, s. 6.

(*t*) § 673.

colonial expenses of collection, be applied in payment of the light dues. expenses incurred in erecting and maintaining the light-
 18 & 19 Vict. c. 91, house (*u*), buoy, or beacon (*u*) in respect of which they are
 s. 6. levied, and for no other purpose.

Advances **674.**—(1.) The Board of Trade may raise such sums as
 for con- they think fit for the purpose of constructing or repairing
 struction any lighthouse (*u*), buoy, or beacon (*u*) in respect of which
 and repair any lighthouse (*u*), buoy, or beacon (*u*) in respect of which
 of colonial colonial light dues (*x*) are levied or are to be levied on
 light- houses, &c. the security of those dues so levied or to be levied.
 18 & 19 Vict. c. 91, s. 7.

(2.) Any sums so to be raised may be advanced by the Treasury out of moneys provided by Parliament, or by the Public Works Loan Commissioners or by any other persons, but any such advances shall be made and secured in the same manner and subject to the same provisions as similar advances for the purpose of lighthouses (*u*) in the United Kingdom under this Part of this Act (*y*).

Accounts **675.**—(1.) Accounts shall be kept of all colonial light
 of colonial dues (*x*) received under this Act and of all sums ex-
 light dues. pended (*z*) in the construction, repair, or maintenance of
 18 & 19 Vict. c. 91, the lighthouse (*u*), buoy, or beacon (*u*) in respect of which
 s. 8. those dues are received.

(2.) These accounts shall be kept in such manner as the Board of Trade direct, and shall be laid annually before Parliament and audited in such manner as may be directed by Order in Council (*y*).

(*u*) Defined, § 742.
 (*x*) § 670, s. 1.

(*y*) §§ 661–663.
 (*z*) § 673.

PART XII.

1854 = 17 & 18 Vict. c. 104.

The marginal references are to the sections reproduced.

ARRANGEMENT OF SECTIONS.

MERCANTILE MARINE FUND.

- 676. Sums payable to the Mercantile Marine Fund (p. 506).
 - 677. Application of Mercantile Marine Fund (p. 507).
 - 678. Subsidy from Parliament to Mercantile Marine Fund
(p. 509).
 - 679. Accounts and audit (p. 509).
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1854 = 17 & 18 Vict. c. 104.

The marginal references are to the sections reproduced.

PART XII.

MERCANTILE MARINE FUND (a).

Sums payable to the Mercantile Marine Fund. 1854, ss. 11, 133, 417. 80 & 31 Vict. c. 124, s. 10. 45 & 46 Vict. c. 55, s. 4. 50 Vict. sess. 2, c. 4, s. 11.

676.—(1.) The common fund called the Mercantile Marine Fund shall continue to exist under that name, and subject to the provisions of this Act there shall be accounted for and paid to that fund—

- (a.) all fees, charges, and expenses payable in respect of the survey or measurement of ships (b) under this Act (c) :
- (b.) all fees and other sums (other than fines and forfeitures) received by the Board of Trade under the Second and Fifth Parts of this Act (d), including all fees payable in respect of the medical inspection of seamen (b) under the Second Part of this Act (e) :
- (c.) the moneys arising from the unclaimed property of deceased seamen (f), except where the same are required to be paid as directed by the Accountant-General of Her Majesty's Navy (g) :
- (d.) any sums recovered by the Board of Trade in respect of expenses incurred in relation to distressed seamen (b) and apprentices under the Second Part of this Act (h) :

(a) Instruments used to carry this Part into effect are exempt from Stamp Duty; § 721.

(b) Defined, § 742.

(c) §§ 6, 83.

(d) Cf. § 716, s. 1, which also

specifies the Fourth Part of this Act.

(e) § 203, s. 2.

(f) § 179.

(g) § 181.

(h) § 194.

- (e.) all fees and other sums payable in respect of any services performed by any person employed under the authority of the Third Part of this Act (i) :
 - (f.) all fees paid upon the engagement or discharge of members of the crews of fishing boats when effected before a superintendent (k) :
 - (g.) such proceeds of the sale of unclaimed wreck as are directed to be paid thereto during the lifetime of Her present Majesty under the Ninth Part of this Act (l) :
 - (h.) any fees received by receivers of wreck under the Ninth Part of this Act (m) :
 - (i.) all light dues or other sums received by or accruing to any of the General Lighthouse Authorities under the Eleventh Part of this Act (n) :
 - (k.) all costs and expenses ordered by the court to be paid to the Board of Trade in pursuance of the Boiler Explosions Acts, 1882 and 1890 (o) :
 - (l.) any sums which under this or any other Act are directed to be paid to the Mercantile Marine Fund.
- (2.) All fees mentioned in this section shall be paid at such time and in such manner as the Board of Trade direct.

677. Subject to the provisions of this Act and to any prior charges that may be subsisting on the Mercantile Marine Fund under any Act of Parliament or otherwise there shall be charged on and payable out of that fund the following expenses so far as they are not paid by any private person :—

- (a.) the salaries and other expenses connected with Local Marine Boards and Mercantile Marine Offices, and with the examinations conducted under the Second and Fourth Parts of this Act :
- (b.) the salaries of all surveyors of ships and officers appointed under this Act and all expenses incurred in connection with the survey and measurement of ships

(i) e.g. of. §§ 277, 306.

(k) § 391.

(l) § 525.

(m) § 567, s. 4.

(n) § 648, s. 1.

(o) 45 & 46 Vict. c. 22 ; 53 & 54 Vict. c. 35.

Application of
Mercantile
Marine
Fund.
1854, s.
418.
30 & 31
Vict. c.
124, s. 10.
43 & 44
Vict. c. 22,
s. 6.
45 & 46
Vict. c. 55,
s. 3.

under this Act (*p*), and the remuneration of medical inspectors of seamen under the Second Part of this Act (*q*) :

- (c.) the salaries and expenses of persons employed under the Third Part of this Act :
- (d.) the superannuation allowances, gratuities, pensions, and other allowances granted either before or after the passing of this Act to any of the said surveyors, officers, or persons :
- (e.) the allowances and expenses paid for the relief of distressed British seamen and apprentices (*r*), including the expenses declared under this Act to be payable as such expenses, and any contributions to seamen's refuges and hospitals :
- (f.) any sums which the Board of Trade, in their discretion, think fit to pay in respect of claims to moneys carried to the Mercantile Marine Fund on account of the property of deceased seamen (*s*), or on account of the proceeds of wreck (*t*) :
- (g.) all expenses of obtaining depositions, reports, and returns respecting wrecks and casualties (*u*) :
- (h.) all expenses incurred in carrying into effect the provisions of this Act with regard to receivers of wrecks and the performance of their duties under this Act (*u*) :
- (i.) all expenses incurred by the general lighthouse authorities in the works and services of lighthouses, buoys, and beacons, or in the execution of any works necessary or expedient for the purpose of permanently reducing the expense of those works and services (*x*) :
- (k.) any pensions or other sums payable in relation to the duties formerly performed by the Trinity House (*y*) in respect of lastage and ballastage in the River Thames :
- (l.) such expenses for establishing and maintaining on the coasts of the United Kingdom proper lifeboats

(*p*) §§ 6, 83.

(*q*) § 203, s. 2.

(*r*) § 194.

(*s*) § 676, s. 1 (*c*).

(*t*) § 676, s. 1 (*g*).

(*u*) Part IX.

(*x*) Cf. §§ 654, s. 2, and 658, 659.

(*y*) Defined, § 742

with the necessary crews and equipments, and for affording assistance towards the preservation of life and property in cases of shipwreck and distress at sea, and for rewarding the preservation of life in such cases, as the Board of Trade direct :

- (m.) such reasonable costs, as the Board of Trade may allow, of advertising or otherwise making known the establishment of, or alterations in, foreign lighthouses, buoys, and beacons to owners, and masters of, and other persons interested in, British ships :
- (n.) all costs and expenses incurred by the Board of Trade under the Boiler Explosions Acts, 1882 and 1890 (z) (so far as not otherwise provided for), including any remuneration paid in pursuance of section seven of the Boiler Explosions Act, 1882, and any costs and expenses ordered by the court in pursuance of those Acts to be paid by the Board of Trade :
- (o.) any expenses which are charged on or payable out of the Mercantile Marine Fund under this or any other Act of Parliament (a).

678. There shall be paid to the Mercantile Marine Fund out of moneys provided by Parliament such sum in each year as may be determined by the Treasury, with the concurrence of the Board of Trade, having regard to the receipts and expenditure of the Mercantile Marine Fund under this Act.

Subsidy
from Par-
liament. (a)
Mercantile
Marine
Fund.
45 & 46
Vict. c. 55
s. 5.

679.—(1.) The accounts of the Mercantile Marine Fund shall be deemed to be public accounts within the meaning of section thirty-three of the Exchequer and Audit Departments Act, 1866 (b), and shall be examined and audited accordingly.

Accounts
and audit
1854, s.
429.
45 & 46
Vict. c. 55
s. 7.

(2.) The Board of Trade shall as soon as may be after the meeting of Parliament in every year cause the accounts of the Mercantile Marine Fund for the preceding year to be laid before both Houses of Parliament.

(a) 45 & 46 Vict. c. 22; 53 & 54 Vict. c. 35.

(a) Cf. § 429, s. 3; § 476, s. 2; and § 531, s. 2.

(b) 29 & 30 Vict. c. 39, s. 33, providing for audit by the Comptroller and Auditor-General.



PART XIII.

1854 = 17 & 18 Vict. c. 104.

1862 = 25 & 26 Vict. c. 63.

1883 = 46 & 47 Vict. c. 41.

Int. Act, 1889 = Interpretation Act, 1889 (52 & 53 Vict. c. 63); and see Appendix.

The marginal references are to the sections reproduced.

ARRANGEMENT OF SECTIONS.

LEGAL PROCEEDINGS.

Prosecution of Offences.

Section.

- 680. Prosecution of offences (p. 513).
- 681. Application of Summary Jurisdiction Acts in certain cases (p. 514).
- 682. Appeal on summary conviction (p. 514).
- 683. Limitation of time for summary proceedings (p. 514).

Jurisdiction.

- 684. Provision as to jurisdiction in case of offences (p. 515).
- 685. Jurisdiction over ships lying off the coasts (p. 516).
- 68J. Jurisdiction in case of offences on board ship (p. 516).
- 687. Offences committed by British seamen at foreign ports to be within Admiralty jurisdiction (p. 516).

Damage occasioned by Foreign Ship.

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Provisions in case of Offences Abroad.

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Detention of Ship and Distress on Ship.

Section.

- 692. Enforcing detention of ship (p. 522).
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Evidence, Service of Documents, and Declarations.

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Application of Penalties and Costs of Prosecutions.

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Procedure in Scotland.

- 702. Offences punishable as misdemeanors (p. 527).
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- 709. Orders not to be quashed for want of form and to be final (p. 529).
- 710. General rules, so far as applicable, to extend to penalties and proceedings in Scotland (p. 529).

Prosecution of Offences in Colonies.

- 711. Prosecution of offences in British possession (p. 530).

Application of Part XIII.

- 712. Application of Part XIII. (p. 530).
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1854 = 17 & 18 Vict. c. 104.

1862 = 25 & 26 Vict. c. 63.

1883 = 46 & 47 Vict. c. 41.

Int. Act, 1889 = Interpretation Act, 1889 (52 & 53 Vict. c. 63); and see Appendix.

The marginal references are to the sections reproduced.

PART XIII.

LEGAL PROCEEDINGS.

Prosecution of Offences.

680.—(1.) Subject to any special provisions of this Act and to the provisions herein-after contained with respect to Scotland,—

(a.) an offence under this Act declared to be a misdemeanor, shall be punishable by fine or by imprisonment not exceeding two years, with or without hard labour, but may, instead of being prosecuted as a misdemeanor, be prosecuted summarily in manner provided by the Summary Jurisdiction Acts (a), and if so prosecuted shall be punishable only with imprisonment for a term not exceeding six months, with or without hard labour, or with a fine not exceeding one hundred pounds.

(b.) an offence under this Act made punishable with imprisonment for any term not exceeding six months, with or without hard labour, or by a fine not exceed-

(a) Int. Act, 1889, § 13. See 11 & 12 Vict. c. 43; 42 & 43 Vict. c. 49; 47 & 48 Vict. c. 43. The procedure will be by summons before justices,

as regulated by those Acts. Cf. Gill and Douglas' Summary Jurisdiction Acts, 7th edit.

Prosecution of offences. 1854, § 518, ss. 1-3.

ing one hundred pounds, shall be prosecuted summarily in manner provided by the Summary Jurisdiction Acts (*b*).

(2.) Any offence committed or fine recoverable under a byelaw made in pursuance of this Act may be prosecuted or recovered in the same manner as an offence or fine under this Act.

Applica-
tion of
Summary
Jurisdic-
tion Acts
in certain
cases.

681 (c).—(1.) The Summary Jurisdiction Acts (*b*) shall, so far as applicable, apply—

(*a*.) to any proceeding under this Act before a court of summary jurisdiction (*d*), whether connected with an offence punishable on summary conviction or not; and

(*b*.) to the trial of any case before one justice of the peace, where, under this Act, such a justice may try the case.

(2.) Where under this Act any sum may be recovered as a fine under this Act, that sum, if recoverable before a court of summary jurisdiction, shall, in England, be recovered as a civil debt in manner provided by the Summary Jurisdiction Acts (*e*).

Appeal on
summary
conviction.
1854, s.
518 (4).

682. Where a person is convicted summarily in England of an offence under this Act, and the fine inflicted or the sum ordered to be paid exceeds five pounds in amount, that person may appeal to quarter sessions against the conviction in manner provided by the Summary Jurisdiction Acts (*f*).

Limitation
of time for
summary
proceed-
ing.
1854, s.
525.

683.—(1.) Subject to any special provisions of this Act neither a conviction for an offence nor an order for payment of money shall be made under this Act in any summary proceeding instituted in the United Kingdom, unless that proceeding is commenced within six months after the commission of the offence or after the cause of complaint arises as the case may be; or, if both or either

(*b*) See note (*a*), p. 500.

(*c*) This section is new.

(*d*) Int. Act, 1889, § 13, s. 12.

(*e*) 42 & 43 Vict. c. 49, §§ 35, 51, s. 2.

(*f*) Ibid. § 31.

of the parties to the proceeding (g) happen during that time to be out of the United Kingdom, unless the same is commenced, in the case of a summary conviction within two months, and in the case of a summary order within six months, after they both first happen to arrive, or to be at one time, within the United Kingdom.

(2.) Subject to any special provisions of this Act neither a conviction for an offence nor an order for payment of money shall be made under this Act in any summary proceeding instituted in any British possession (h), unless that proceeding is commenced within six months after the commission of the offence or after the cause of complaint arises as the case may be; or if both or either of the parties to the proceeding happen during that time not to be within the jurisdiction of any court capable of dealing with the case, unless the same is commenced in the case of a summary conviction within two months, and in the case of a summary order within six months after they both first happen to arrive, or to be at one time, within that jurisdiction.

(3.) No law for the time being in force under any Act, ordinance, or otherwise, which limits the time within which summary proceedings may be instituted shall affect any summary proceeding under this Act.

(4.) Nothing in this section shall affect any proceeding to which the Public Authorities Protection Act, 1893, applies (i).

Jurisdiction.

684. For the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed and every cause of complaint to have arisen either in the place in which the same actually was committed or arose, or in any place in which the offender or person complained against may be.

Provision as to jurisdiction in case of offences. 1854, s. 520.

(g) Cf. *Austin v. Olsen* (1868), L. R. 3 Q. B. 208.

(h) Int. Act, 1889, § 18, s. 2.

(i) 56 & 57 Vict. c. 61; which

requires proceedings against public authorities or officers to be brought within six months of the offence.

Jurisdiction over ships lying off the coasts. 1854, s. 521. 42 & 43 Vict. c. 49, s. 46.

685.—(1.) Where any district within which any court (*k*), justice of the peace, or other magistrate, has jurisdiction either under this Act or under any other Act or at common law for any purpose whatever is situate on the coast of any sea, or abutting on or projecting into any bay, channel, lake, river, or other navigable water, every such court, justice, or magistrate, shall have jurisdiction over any vessel (*l*) being on, or lying or passing off, that coast, or being in or near that bay, channel, lake, river, or navigable water, and over all persons on board that vessel or for the time being belonging thereto, in the same manner as if the vessel or persons were within the limits of the original jurisdiction of the court (*k*) justice or magistrate.

(2.) The jurisdiction under this section shall be in addition to and not in derogation of any jurisdiction or power of a court under the Summary Jurisdiction Acts (*m*).

Jurisdiction in case of offences on board ship. 18 & 19 Vict. c. 91, s. 21. 30 & 31 Vict. c. 124, s. 11.

686.—(1.) Where any person, being a British subject, is charged with having committed any offence on board any British ship (*n*) on the high seas or in any foreign port (*k*) or harbour or on board any foreign ship to which he does not belong, or, not being a British subject, is charged with having committed any offence on board any British ship (*n*) on the high seas (*o*), and that person is found (*p*) within the jurisdiction of any court in Her Majesty's dominions, which would have had cognizance of the offence if it had been committed on board a British ship (*n*) within the limits of its ordinary jurisdiction, that court shall have jurisdiction to try the offence as if it had been so committed.

(2.) Nothing in this section shall affect the Admiralty Offences (Colonial) Act, 1849 (*q*).

Offences committed

687. All offences against property or person committed

(*k*) Defined, § 742.

(*l*) Wider than "ship;" see § 742, and notes.

(*m*) Int. Act, 1889, § 13, ss. 6-11.

(*n*) Note to § 1.

(*o*) In *R. v. Keyn* (1876), 2 Ex. D. 63, this section was held not to apply to negligence on a foreign ship

causing death on a British ship.

(*p*) This applies to the prisoner brought within the jurisdiction of a court against his will. *Reg. v. Lopez*; *Reg. v. Sattler* (1858), 7 Cox C. C. 431; 27 L. J. M. C. 48.

(*q*) 12 & 13 Vict. c. 96; giving power to try such cases in the colonies.

in or at any place either ashore or afloat out of Her Majesty's dominions by any master (r), seaman (r), or apprentice (s) who at the time when the offence is committed is, or within three months previously has been, employed in any British ship (t) shall be deemed to be offences of the same nature respectively, and be liable to the same punishments respectively, and be inquired of, heard, tried, determined, and adjudged in the same manner and by the same courts and in the same places as if those offences had been committed within the jurisdiction of the Admiralty of England; and the costs and expenses of the prosecution of any such offence may be directed to be paid as in the case of costs and expenses of prosecutions for offences committed within the jurisdiction of the Admiralty of England (u).

by British
seamen at
foreign
ports to be
within
Admiralty
jurisdiction.
1854, s.
267.

Damage occasioned by Foreign Ship.

688.—(1.) Whenever any injury has in any part of the world been caused to any property (x) belonging to Her Majesty or to any of Her Majesty's subjects by any foreign ship (r), and at any time thereafter that ship is found in any port (r) or river of the United Kingdom or within three miles of the coast thereof, a judge of any court of record in the United Kingdom (and in Scotland the Court of Session and also the sheriff of the county within whose jurisdiction the ship may be) may, upon its being shown to him by any person applying summarily that the injury was probably caused by the misconduct or want of skill of the master (r) or mariners of the ship, issue an order directed to any officer of customs or other officer named by the judge, court, or sheriff, requiring him to detain (y) the ship until such time as the owner (z), master (r), or consignee thereof has made satisfaction in respect of the injury, or has given security, to be approved by the judge, court, or sheriff, to abide the

Power to
arrest
foreign
ship that
has
occasioned
damage.
1854, ss.
527-529.

(r) Defined, § 742.

(s) §§ 105-109.

(t) Note to § 1.

(u) See § 701.

(x) Does not include injury to the

person. *Harris v. Franconia* (1877),
2 O. P. D. 173; *The Vera Cruz*
(1884), 10 App. C. 59.

(y) § 692.

(z) Note to § 58.

event of any action, suit, or other legal proceeding that may be instituted in respect of the injury, and to pay all costs and damages that may be awarded thereon; and any officer of customs or other officer to whom the order is directed shall detain (a) the ship accordingly.

(2.) Where it appears that, before an application can be made under this section, the ship in respect of which the application is to be made will have departed from the limits of the United Kingdom or three miles from the coast thereof, the ship may be detained (a) for such time as will allow the application to be made, and the result thereof to be communicated to the officer detaining the ship, and that officer shall not be liable for any costs or damages in respect of the detention unless the same is proved to have been made without reasonable grounds.

(3.) In any legal proceeding in relation to any such injury aforesaid, the person giving security shall be made defendant or defender, and shall be stated to be the owner (b) of the ship that has occasioned the damage; and the production of the order of the judge, court, or sheriff made in relation to the security shall be conclusive evidence of the liability of the defendant or defender to the proceeding.

Provisions in case of Offences Abroad.

Convey-
ance of
offenders
and wit-
nesses to
United
Kingdom
or British
possession.
1854, s.
268.
45 & 46
Vict. c. 55,
s. 9.

689.—(1.) Whenever any complaint is made to any British consular officer (c)—

- (a.) that any offence against property or person has been committed at any place, either ashore or afloat, out of Her Majesty's dominions by any master (d), seaman (d), or apprentice (e), who at the time when the offence was committed, or within three months before that time, was employed in any British ship (f); or
- (b.) that any offence on the high seas has been committed by any master (d), seaman (d), or apprentice (e) belonging to any British ship (f),

(a) § 692.

(b) Note to § 58.

(c) Int. Act, 1889, § 12, s. 20.

(d) Defined, § 742.

(e) §§ 105-109.

(f) Note to § 1.

that consular officer may inquire into the case upon oath, and may, if the case so requires, take any steps in his power for the purpose of placing the offender under the necessary restraint and of sending him as soon as practicable in safe custody to the United Kingdom, or to any British possession (*g*) in which there is a court capable of taking cognizance of the offence, in any ship belonging to Her Majesty or to any of Her subjects, to be there proceeded against according to law.

(2.) The consular officer (*h*) may order the master (*i*) of any ship (*i*) belonging to any subject of Her Majesty bound to the United Kingdom or to such British possession (*g*) as aforesaid to receive and afford a passage and subsistence during the voyage to any such offender as aforesaid, and to the witnesses, so that the master be not required to receive more than one offender for every one hundred tons of his ship's registered tonnage, or more than one witness for every fifty tons of that tonnage; and the consular officer shall endorse upon the agreement of the ship (*k*) such particulars with respect to any offenders or witnesses sent in her as the Board of Trade require.

(3.) Any master (*i*) of a ship (*i*) to whose charge an offender has been so committed shall, on his ship's arrival in the United Kingdom or in such British possession (*g*) as aforesaid, give the offender into the custody of some police-officer or constable, and that officer or constable shall take the offender before a justice of the peace or other magistrate by law empowered to deal with the matter, and the justice or magistrate shall deal with the matter as in cases of offences committed upon the high seas (*l*).

(4.) If any master (*g*) of a ship (*g*), when required by any British consular officer (*h*) to receive and afford a passage and subsistence to any offender or witness, does not receive him and afford a passage and subsistence to him, or does not deliver any offender committed to his charge into the custody of some police officer or constable as herein-before

(*g*) Int. Act, 1889, § 18, s. 2.

(*h*) Ibid. § 12, s. 20.

(*i*) Defined, § 742.

(*k*) *Semble*, the agreement with the crew; cf. § 113.

(*l*) § 686.

directed, he shall for each offence be liable to a fine not exceeding fifty pounds (*m*).

(5.) The expense of imprisoning any such offender and of conveying him and the witnesses to the United Kingdom or to such British possession (*n*) as aforesaid in any manner other than in the ship to which they respectively belong, shall, where not paid as part of the costs of the prosecution, be paid out of moneys provided by Parliament.

Inquiry
into cause
of death
on board
ship.
1854, ss.
109, 269.
1883, s. 55.

690.—(1.) Where a case of death happens on board any foreign-going British ship (*o*), the superintendent (*p*) at the port (*q*) where the crew of the ship is discharged, shall, on the arrival of the ship at that port, inquire into the cause of the death, and shall make in the official log (*r*) an endorsement to the effect, either that the statement of the cause of death in the log (*r*) is in his opinion true, or the contrary, according to the result of the inquiry.

(2.) A superintendent (*p*) shall for the purpose of an inquiry under this section have the powers of a Board of Trade inspector under this Act (*s*); and if in the course of any such inquiry it appears to a superintendent (*p*) that any such death has been caused on board the ship by violence or other improper means, he shall either report the matter to the Board of Trade, or, if the emergency of the case so requires, shall take immediate steps for bringing the offender or offenders to justice.

(8.) This section shall not apply—

- (a.) except in Scotland, to fishing boats (*t*); nor
- (b.) to ships registered (*u*) in a British possession (*n*) when those ships are within the jurisdiction of the government of that possession (*n*); nor
- (c.) to pleasure yachts, or ships belonging to any of the three general lighthouse authorities (*x*).

(*m*) Procedure, §§ 680-684; fine how applicable, §§ 699, 716.

(*n*) Int. Act, 1889, § 18, s. 2.

(*o*) Note to § 1.

(*p*) §§ 247, 742.

(*q*) Defined, § 742.

(*r*) § 240.

(*s*) § 728.

(*t*) Cf. § 263

(*u*) § 4.

(*x*) § 262.

691.—(1.) Whenever in the course of any legal proceeding instituted in any part of Her Majesty's dominions before any judge or magistrate, or before any person authorized by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject matter of that proceeding, then upon due proof, if the proceeding is instituted in the United Kingdom that the witness cannot be found in that kingdom, or if in any British possession (*y*) that he cannot be found in that possession, any deposition that the witness may have previously made on oath in relation to the same subject matter before any justice or magistrate in Her Majesty's dominions, or any British consular officer (*z*) elsewhere, shall be admissible in evidence, provided that—

Depositions to be received in evidence when witness cannot be produced.
1854, s. 270.

- (a.) if the deposition was made in the United Kingdom, it shall not be admissible in any proceeding instituted in the United Kingdom; and
- (b.) if the deposition was made in any British possession (*y*), it shall not be admissible in any proceeding instituted in that British possession (*y*); and
- (c.) if the proceeding is criminal it shall not be admissible, unless it was made in the presence of the person accused.

(2.) A deposition so made shall be authenticated by the signature of the judge, magistrate, or consular officer (*z*) before whom it is made; and the judge, magistrate, or consular officer shall certify, if the fact is so, that the accused was present at the taking thereof.

(3.) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition, and in any criminal proceeding a certificate under this section shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

(4.) Nothing herein contained shall affect any case in which depositions taken in any proceeding are rendered admissible in evidence by any Act of Parliament, or by any

(*y*) Int. Act, 1889, § 18, s. 2.

(*z*) Ibid. § 12, s. 20.

Act or ordinance of the legislature (*a*) of any colony (*b*), so far as regards that colony, or interfere with the power of any colonial legislature (*a*) to make those depositions admissible in evidence, or to interfere with the practice of any court in which depositions not authenticated as hereinbefore mentioned are admissible.

Detention of Ship and Distress on Ship.

Enforcing
detention
of ship.
39 & 40
Vict. c. 80,
s. 34.

692.—(1.) Where under this Act a ship (*c*) is to be or may be detained, any commissioned officer on full pay in the naval or military service of Her Majesty, or any officer of the Board of Trade, or any officer of Customs, or any British consular officer (*d*) may detain the ship, and if the ship after detention or after service on the master (*c*) of any notice of or order for detention proceeds to sea before it is released by competent authority, the master (*c*) of the ship, and also the owner (*e*), and any person who sends the ship to sea, if that owner (*e*) or person is party or privy to the offence, shall be liable for each offence to a fine not exceeding one hundred pounds (*f*).

(2.) Where a ship (*c*) so proceeding to sea takes to sea when on board thereof in the execution of his duty any officer authorized to detain the ship (*g*), or any surveyor (*h*) or officer of the Board of Trade or any officer of Customs, the owner (*e*) and master (*c*) of the ship shall each be liable to pay all expenses of and incidental to the officer or surveyor being so taken to sea, and also to a fine not exceeding one hundred pounds (*f*), or, if the offence is not prosecuted in a summary manner, not exceeding ten pounds for every day until the officer or surveyor returns, or until such time as would enable him after leaving the ship to return to the port (*c*) from which he is taken, and the expenses ordered to be paid may be recovered in like manner as the fine (*f*).

(*a*) Int. Act, 1889, § 18, s. 7.

(*b*) Ibid. s. 3.

(*c*) Defined, § 742.

(*d*) Int. Act, 1889, § 12, s. 20.

(*e*) § 58.

(*f*) Procedure, §§ 680-684 ; fine how recoverable, §§ 699, 716.

(*g*) Sub-s. 1.

(*h*) § 724. *See cf. The Westmoreland* (1845), 2 W. Rob. 394.

(3.) Where under this Act a ship is to be detained an officer of Customs shall, and where under this Act a ship may be detained an officer of Customs may, refuse to clear that ship outwards (i) or to grant a transire (k) to that ship.

(4.) Where any provision of this Act provides that a ship may be detained until any document is produced to the proper officer of customs, the proper officer shall mean, unless the context otherwise requires, the officer able to grant a clearance (i) or transire (k) to such ship.

693. Where any court (l), justice of the peace, or other magistrate, has power to make an order directing payment to be made of any seaman's (l) wages (l), fines, or other sums of money, then, if the party so directed to pay the same is the master (l) or owner (m) of a ship, and the same is not paid at the time and in manner prescribed in the order, the court (l), justice of the peace, or magistrate who made the order may, in addition to any other powers they may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress or poinding and sale of the ship (l), her tackle, furniture, and apparel (n). Sums ordered to be paid leviable by distress on ship. 1854, a. 523.

Evidence, Service of Documents, and Declarations.

694. Where any document is required by this Act to be executed in the presence of or to be attested by any witness or witnesses, that document may be proved by the evidence of any person who is able to bear witness to the requisite facts without calling the attesting witness or the attesting witnesses or any of them. Proof of attestation not required. 1854, a. 526.

695.—(1.) Where a document is by this Act declared to be admissible in evidence, such document shall, on its production from the proper custody, be admissible in evidence in any court or before any person having by law or consent of parties authority to receive evidence, and, subject to all just exceptions, shall be evidence of the Admissibility of documents in evidence. See 14 & 15 Vict. c. 99, ss. 14, 15, 17.

(i) 39 & 40 Vict. c. 36, § 128.

(k) Ibid. §§ 145, 146.

(l) Defined, § 742.

(m) § 58.

(n) § 724. See *cf. The Westmoreland* (1845), 2 W. Rob. 394.

matters stated therein in pursuance of this Act or by any officer in pursuance of his duties as such officer.

(2.) A copy of any such document or extract therefrom shall also be so admissible in evidence if proved to be an examined copy or extract, or if it purports to be signed and certified as a true copy or extract by the officer to whose custody the original document was entrusted, and that officer shall furnish such certified copy or extract to any person applying at a reasonable time for the same, upon payment of a reasonable sum for the same, not exceeding fourpence for every folio of ninety words, but a person shall be entitled to have—

(a.) a certified copy of the particulars entered by the registrar in the register book on the registry of the ship, together with a certified statement showing the ownership of the ship at the time being; and

(b.) a certified copy of any declaration, or document, a copy of which is made evidence by this Act,

on payment of one shilling for each copy.

(3.) If any such officer wilfully certifies any document as being a true copy or extract knowing the same not to be a true copy or extract, he shall for each offence be guilty of a misdemeanor, and be liable on conviction to imprisonment for any term not exceeding eighteen months (o).

(4.) If any person forges the seal, stamp, or signature of any document to which this section applies, or tenders in evidence any such document with a false or counterfeit seal, stamp, or signature thereto, knowing the same to be false or counterfeit, he shall for each offence be guilty of felony, and be liable to penal servitude for a term not exceeding seven years, or to imprisonment for a term not exceeding two years, with or without hard labour, and whenever any such document has been admitted in evidence, the court or the person who admitted the same may on request direct that the same shall be impounded, and be kept in the custody of some officer of the court or

other proper person, for such period or subject to such conditions as the court or person thinks fit.

696 (p).—(1.) Where for the purposes of this Act any document is to be served (p) on any person, that document may be served—

Service of documents.
1854, s. 522.
89 & 40 Vict. c. 80, s. 35.

- (a.) in any case by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode ; and
- (b.) if the document is to be served on the master (q) of a ship, where there is one, or on a person belonging to a ship, by leaving the same for him on board that ship with the person being or appearing to be in command or charge of the ship ; and,
- (c.) if the document is to be served on the master (q) of a ship, where there is no master, and the ship is in the United Kingdom, on the managing owner (r) of the ship, or, if there is no managing owner, on some agent of the owner residing in the United Kingdom, or where no such agent is known or can be found, by affixing a copy thereof to the mast of the ship.

(2.) If any person obstructs the service on the master (q) of a ship of any document under the provisions of this Act relating to the detention of ships as unseaworthy (s), that person shall for each offence be liable to a fine not exceeding ten pounds (t), and, if the owner (u) or master (q) of the ship is party or privy to the obstruction, he shall in respect of each offence be guilty of misdemeanor.

697. Any exception, exemption, proviso, excuse, or Proof, &c., qualification, in relation to any offence under this Act, whether it does or does not accompany in the same section the description of the offence, may be proved by the defendant, but need not be specified or negatived in any information or complaint, and, if so specified or negatived, no proof in relation to the matter so specified or negatived

of exemption.
Cf. 42 & 43 Vict. c. 49, s. 39, sub-s. 2.

(p) Int. Act, 1889, § 26.

(q) Defined, § 742.

(r) § 59.

(s) §§ 459-463.

(t) Procedure, §§ 680-684 ; fine, how applicable, §§ 699, 716.

(u) § 58, and note.

shall be required on the part of the informant or complainant (*x*).

Declara-
tions.

698. Any declaration required by this Act to be taken before a justice of the peace or any particular officer may be taken before a commissioner for oaths (*y*).

Application of Penalties and Costs of Prosecutions.

Applica-
tion of
penalties.
1854, s.
524.
See 18 &
19 Vict. c.
119, s. 88.

699.—(1.) Where any court (*z*), justice of the peace, or other magistrate, imposes a fine under this Act for which no specific application is herein provided, that court, justice of the peace, or magistrate, may if they think fit direct the whole or any part of the fine to be applied in compensating any person for any wrong or damage which he may have sustained by the act or default in respect of which the fine is imposed, or to be applied in or towards payment of the expenses of the proceedings.

(2.) Subject to any directions under this section or to any specific application provided under this Act, all fines under this Act shall, notwithstanding anything in any other Act—

(*a*.) if recovered in the United Kingdom, be paid into the Exchequer in such manner as the Treasury may direct, and be carried to and form part of the Consolidated Fund; and

(*b*.) if recovered in any British possession (*a*), be paid over into the public treasury of that possession, and form part of the public revenue thereof.

Expenses
of prosecu-
tion of
misdeme-
anor.
1854, s.
518 (1).

700. Where an offence under this Act is prosecuted as a misdemeanor (*b*), the court before whom the offence is prosecuted may in England make the same allowances and order payment of the same costs and expenses as if the offence were a felony (*c*), and in any other part of Her Majesty's dominions may make such allowances and order payment

(*x*) See 42 & 43 Vict. c. 49, s. 39 (2).

(*y*) See 52 & 53 Vict. c. 10; 54 & 55 Vict. c. 50.

(*z*) Defined, § 742.

(*a*) Int. Act, 1889, § 18, s. 2.

(*b*) Cf. § 680.

(*c*) These allowances are provided for by 7 Geo. IV. c. 64, § 22, as to felonies; § 23 as to misdemeanors treated as felonies.

of such costs and expenses as are payable or allowable upon the trial of any misdemeanor or under any law for the time being in force therein (d).

701. Such costs and expenses of and incidental to any prosecution for a felony or misdemeanor as are by law payable out of any county or other local rate (e) shall, where the felony or misdemeanor has been committed within the jurisdiction of the Admiralty of England, be paid in the same manner and subject to the same regulations as if the felony or misdemeanor had been committed in the county in which the same is heard and determined, or, where the same is heard and determined at the Central Criminal Court, as if the same had been committed in the county of London, and all sums properly paid out of any county or other local rate in respect of those costs and expenses shall be repaid out of money provided by Parliament.

Payment of costs of prosecution of offences committed in Admiralty jurisdiction. 45 & 46 Vict. c. 55, s. 9.

Procedure in Scotland.

702. In Scotland every offence which by this Act is described as a felony or misdemeanor may be prosecuted by indictment or criminal letters at the instance of Her Majesty's Advocate before the High Court of Justiciary, or by criminal libel at the instance of the procurator fiscal of the county before the sheriff, and shall be punishable with fine and with imprisonment with or without hard labour in default of payment, or with imprisonment with or without hard labour, or with both, as the court may think fit, or in the case of felony with penal servitude where the court is competent thereto; and such court may also, if it think fit, order payment by the offender of the costs and expenses of the prosecution.

Offences punishable as misdemeanors. 1854, s. 530.

703. In Scotland all prosecutions, complaints, actions, or proceedings under this Act, other than prosecutions for felonies or misdemeanors, may be brought in a summary

Summary proceedings. 1854, s. 531.

(d) Misdemeanors under this Act come under the section as to misdemeanors cited in note (c), p. 526, as amended by 29 & 30 Vict. c. 52, § 1.

Cf. Gill and Douglas, Summary Jurisdiction Acts, 7th edit., p. 519.

(e) See note (c) to § 700; and 7 Geo. IV. c. 64, §§ 24, 25.

form before the sheriff of the county, or before any two justices of the peace of the county or burgh where the cause of such prosecution or action arises, or where the offender or defender may be for the time, and when of a criminal nature or for fines or penalties, at the instance of the procurator fiscal of court, or at the instance of any party aggrieved, with concurrence of the procurator fiscal of court; and the court may, if it think fit, order payment by the offender or defender of the costs of the prosecution or action.

Form of
complaint.
1854, s.
532.

704. Where in any summary proceedings under this Act in Scotland any complaint or action is brought in whole or in part for the enforcement of a pecuniary debt or demand, the complaint may contain a prayer for warrant to arrest upon the dependence.

Warrants
on sum-
mary pro-
ceedings.
1854, s.
533.

705. On any summary proceedings in Scotland the deliverance of the sheriff clerk or clerk of the peace shall contain warrant to arrest upon the dependence in common form, where that warrant has been prayed for in the complaint or other proceeding: Provided always, that where the apprehension of any party, with or without a warrant, is authorized by this Act, such party may be detained in custody until he can be brought at the earliest opportunity before any two justices or the sheriff who may have jurisdiction in the place, to be dealt with as this Act directs, and no citation or induciæ shall in such case be necessary.

Backing
arrest-
ments.
1854, s.
534.

706. When it becomes necessary to execute such arrestment on the dependence against goods or effects of the defender within Scotland, but not locally situated within the jurisdiction of the sheriff or justices of the peace by whom the warrant to arrest has been granted, it shall be competent to carry the warrant into execution on its being endorsed by the sheriff clerk, or clerk of the peace of the county or burgh respectively within which such warrant comes to be executed.

Form of
decree for

707. Where on any summary proceedings in Scotland

there is a decree for payment of any sum of money against defender, the decree shall contain warrant for arrestment, poinding, and imprisonment in default of payment.

payment
of money.
1851, s.
538.

708. In all summary complaints and proceedings for recovery of any penalty or sum of money in Scotland, if a defender who has been duly cited shall not appear at the time and place required by the citation, he shall be held as confessed, and sentence or decree shall be pronounced against him in terms of the complaint, with such costs and expenses as to the court shall seem fit: Provided that he shall be entitled to obtain himself reponed against any such decree at any time before the same be fully implemented, by lodging with the clerk of court a reponing note, and consigning in his hands the sum decerned for, and the costs which had been awarded by the court, and on the same day delivering or transmitting through the post to the pursuer or his agent a copy of such reponing note; and a certificate by the clerk of court of such note having been lodged shall operate as a sist of diligence till the cause shall have been reheard and finally disposed of, which shall be on the next sitting of the court, or any day to which the court shall then adjourn it.

Sentence
and penal-
ties in de-
fault of
defender's
appear-
ance.
1854, s.
539.

709. No order, decree, or sentence pronounced by any sheriff or justice of the peace in Scotland under the authority of this Act shall be quashed or vacated for any misnomer, informality, or defect of form; and all orders, decrees, and sentences so pronounced shall be final and conclusive, and not subject to suspension, reduction or to any form of review or stay of execution, except on the ground of corruption or malice on the part of the sheriff or justices, in which case the suspension, or reduction must be brought within fourteen days of the date of the order, decree, or sentence complained of: Provided that no stay of execution shall be competent to the effect of preventing immediate execution of such order, decree, or sentence.

Orders not
to be
quashed
for want
of form
and to be
final.
1854, s.
542.

710. Nothing in this Act shall be held in any way to annul or restrict the common law of Scotland with regard to

General
rules, so
far as

applicable, the prosecution or punishment of offences at the instance
to ex- or by the direction of the Lord Advocate, or the rights of
tend to owners or creditors in regard to enforcing a judicial sale of
penalties any ship (*f*) and tackle, or to give to the High Court (*g*) in
and pro- proceedings in Scotland any jurisdiction in respect of salvage in Scotland
ceedings in Scot- which it has not heretofore had or exercised.
land.
1854, a.
543.

Prosecution of Offences in Colonies (h).

Prosecu- 711. Any offence under this Act shall, in any British
tion of possession (*i*), be punishable by any court or magistrate by
offences in whom an offence of a like character is ordinarily punish-
British able, or in such other manner as may be determined by
possession. any Act or ordinance having the force of law in that
1854, a.
518 (5). possession.

Application of Part XIII.

Applica- 712. This Part of this Act shall, except where otherwise
tion of provided, apply to the whole of Her Majesty's dominions.
Part XIII.
1854, a.
517. (*f*) Defined, § 714. (*h*) Int. Act., 1889, § 18, a. 3.
(*g*) Int. Act., 1889, § 18, a. 1. (*i*) Ibid. § 18, a. 2.

PART XIV.

1854 = 17 & 18 Vict. c. 104.

1862 = 25 & 26 Vict. c. 63.

Int. Act, 1889 = Interpretation Act, 1889 (52 & 53 Vict. c. 63); and see Appendix.

The marginal references are to the sections reproduced.

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- 718. Expenses incurred by Commissioners of Customs (p. 535).

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- 720. Power of Board of Trade to prescribe forms (p. 535).
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- 729. Powers of inspectors (p. 541).
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- 737. Provision for foreign places where Her Majesty has jurisdiction (p. 545).

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- 738. Provision as to Orders in Council (p. 545).

Transmission and Publication of Documents.

- 739. Notices, &c., to be in writing and provision as to sending by post (p. 546).
- 740. Publication in "London Gazette" (p. 546).

Exemption of Her Majesty's Ships.

- 741. Exemption of Her Majesty's ships (p. 546).

Definitions and Provisions as to Application of Act.

Section.

- 742. Definitions (p. 546).
- 743. Application of Act to ships propelled by electricity, &c.
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Repeal and Savings.

- 745. Repeal (p. 550).
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Short Title and Commencement.

- 747. Short title (p. 552).
 - 748. Commencement (p. 552).
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1854 = 17 & 18 Vict. c. 104.

1862 = 25 & 26 Vict. c. 63.

Int. Act, 1889 = Interpretation Act, 1889 (52 & 53 Vict. c. 63); and see Appendix.

The marginal references are to the sections reproduced.

PART XIV.

SUPPLEMENTAL.

General Control of Board of Trade (a).

Superintendence of merchant shipping by Board of Trade.
1854, s. 6.

713. The Board of Trade (a) shall be the department to undertake the general superintendence of all matters relating to merchant shipping and seamen (b), and are authorized to carry into execution the provisions of this Act and of all Acts relating to merchant shipping and seamen (b) for the time being in force, except where otherwise provided by those Acts, or except so far as those Acts relate to the revenue.

Returns as to merchant shipping to Board of Trade.
1851, s. 12.

714. All consular officers (c) and officers of customs abroad, and all local marine boards (d) and superintendents (e), shall make and send to the Board of Trade such returns or reports on any matter relating to British merchant shipping or seamen as the Board may require.

Production of log-books, &c., by superintendents.
1854, s. 12.

715. All superintendents (e) shall, when required by the Board of Trade, produce to that Board or to its officers all official log-books (f) and other documents which are delivered to them under this Act (g).

(a) Int. Act, 1889, § 12, s. 8.

(e) §§ 247, 742.

(b) Defined, § 742.

(f) § 248.

(c) Int. Act, 1889, § 12, s. 20.

(g) Cf. § 256.

(d) § 244.

716.—(1.) All fees and other sums (other than fines) received by the Board of Trade under the Second, Fourth, and Fifth Parts of this Act shall be carried to the account of the Mercantile Marine Fund (*h*). Application of fees, fines, &c. 1854, s. 11. 50 Vict. sess. 2, c. 4, s. 11.

(2.) All fines coming into the hands of the Board of Trade under this Act shall be paid into the Exchequer as the Treasury may direct, and shall be carried to and form part of the Consolidated Fund (*i*).

717. The Board of Trade may take any legal proceedings under this Act in the name of any of their officers. Legal proceedings. 36 & 37 Vict. c. 85, s. 31.

Expenses of Commissioners of Customs.

718. All expenses incurred by the Commissioners of Customs in the conduct of suits or prosecutions, or otherwise in carrying into effect the provisions of this Act, shall be considered as expenses having reference to the Revenues of Customs, and shall be paid accordingly; but the Board of Trade may, with the consent of the Treasury, repay out of the Mercantile Marine Fund all or any part of such of the expenses so paid as are under this Act chargeable on that fund (*k*). Expenses incurred by Commissioners of Customs. 1854, s. 548.

Documents and Forms.

719. All documents purporting to be made, issued, or written by or under the direction of the Board of Trade, and to be sealed with the seal of the Board, or to be signed by their secretary or one of their assistant secretaries, or, if a certificate, by one of the officers of the Marine Department, shall be admissible in evidence in manner provided by this Act (*l*). Proof of documents. 1854, s. 7.

720.—(1.) Subject to any special provisions of this Act the Board of Trade may prepare and sanction forms for any book, instrument, or paper required under this Act, other than those required under the First Part of this Act (*m*), and may make such alterations in these forms as they think fit. Power of Board of Trade to prescribe forms. 1854, s. 8.

(*h*) Cf. § 676.
(*i*) Cf. § 699.
(*k*) Cf. § 677.

(*l*) § 695.
(*m*) Schedule I.

(2.) The Board shall cause every such form to be sealed with their seal or marked with some other distinguishing mark, and before finally issuing any form or making any alteration in a form shall cause public notice thereof to be given in such manner as the Board think requisite in order to prevent inconvenience.

(3.) The Board of Trade shall cause all such forms to be supplied at all custom houses and mercantile marine offices (*n*) in the United Kingdom, free of charge, or at such moderate prices as the Board may fix, or the Board may license any persons to print and sell the forms.

(4.) Every such book, instrument, or paper, required under this Act (*o*) shall be made in the form (if any) approved by the Board of Trade, or as near thereto as circumstances permit, and unless so made shall not be admissible in evidence in any civil proceeding on the part of the owner or master of any ship (*p*).

(5.) Every such book, instrument, or paper, if made in a form purporting to be the proper form, and to be sealed or marked in accordance with this section (*q*), shall be deemed to be in the form required by this Act unless the contrary is proved.

Exemption from stamp duty.
1854, s. 9.

721. The following instruments shall be exempt from stamp duty:—

- (a.) any instruments used for carrying into effect the First Part of this Act; and
- (b.) any instruments used by or under the direction of the Board of Trade in carrying into effect the Second, Fifth, Eleventh, and Twelfth Parts of this Act; and
- (c.) any instruments which are by those parts of this Act required to be in a form approved by the Board of Trade, if made in that form.

Offences as to use of forms.
1854, s. 10.

722.—(1.) If any person—

- (a.) forges, assists in forging, or procures to be forged,

(*n*) § 246.

57, 720, s. 1, and notes.

(*o*) This does not apply to forms under Part I., as to which see §§ 24,

(*p*) Defined, § 742.

(*q*) Sub-s. 2.

the seal or any other distinguishing mark of the Board of Trade on any form issued by the Board of Trade under this Act; or

(b.) fraudulently alters, or assists in fraudulently altering, or procures to be fraudulently altered, any such form,

that person shall in respect of each offence be guilty of a misdemeanor (q).

(2.) If any person—

(a.) when a form approved by the Board is, under the Second Part of this Act, required to be used, uses without reasonable cause a form not purporting to be a form so approved (r); or

(b.) prints, sells, or uses any document purporting to be a form approved by the Board of Trade, knowing the same not to be the form approved for the time being, or not to have been prepared or issued by the Board of Trade,

that person shall, for each offence, be liable to a fine not exceeding ten pounds (r).

Powers for enforcing Compliance with Act.

723.—(1.) Where any of the following officers, namely :—
 any officer of the Board of Trade,
 any commissioned officer of any of Her Majesty's ships
 on full pay,

*Powers for seeing that Act is complied with.
 1854, s. 13.*

any British consular officer (s),
 the Registrar-General of Shipping and Seamen (t) or his assistant,
 any chief officer of Customs (u) in any place in Her Majesty's dominions, or
 any superintendent (x),

has reason to suspect that the provisions of this Act, or any law for the time being in force relating to merchant

(q) Procedure, §§ 680-684; fine, how applicable, §§ 689, 716.

(r) See note (n), p. 536.

(s) Int. Act, 1889, § 12, s. 20.

(t) § 251.

(u) Defined, § 742.

(x) §§ 247, 742.

seamen or navigation, is not complied with, that officer may—

- (a.) require the owner (*y*), master (*z*), or any of the crew (*a*) of any British ship (*b*) to produce any official log-books (*c*) or other documents relating to the crew (*d*) or any member thereof in their respective possession or control;
- (b.) require any such master (*z*) to produce a list of all persons on board his ship, and take copies of the official log-books (*c*), or documents (*d*), or any part thereof;
- (c.) muster the crew (*a*) of any such ship (*b*); and
- (d.) summon the master (*z*) to appear and give any explanation concerning the ship or her crew (*a*) or the official log-books (*e*) or documents (*d*) produced or required to be produced.

(2.) If any person, on being duly required by an officer authorized under this section, fails (*f*) without reasonable cause to produce to that officer any such official log-book (*e*) or document (*d*) as he is required to produce under this section, or refuses to allow the same to be inspected or copied, or impedes any muster of the crew (*a*) required under this section, or refuses or neglects to give any explanation which he is required under this section to give, or knowingly misleads or deceives any officer authorized under this section to demand any such explanation, that person shall for each offence be liable to a fine not exceeding twenty pounds (*g*).

Surveyors of Ships.

Appointment of surveyors. 1854, ss. 29, 305, 307, 308. 35 & 36 Vict. c. 73, ss. 3, 13, 15.

724.—(1.) The Board of Trade may, at such ports (*z*) as they think fit, appoint either generally or for special purposes, and on special occasion, any person they think fit to be a surveyor of ships (*z*) for the purposes of this

(*y*) Note to § 58.

(*z*) Defined, § 742.

(*a*) Note to § 113.

(*b*) Note to § 1.

(*c*) § 244.

(*d*) *e.g.* agreement with crew;

§ 113.

(*e*) § 244.

(*f*) Includes refusal; § 742.

(*g*) Procedure, §§ 680-684; fine, how applicable, §§ 699, 716.

Act, and a person so appointed (in this Act referred to as a surveyor of ships) may be appointed either as a shipwright surveyor or as an engineer surveyor or as both.

(2.) The Board of Trade may also appoint a surveyor-general of ships for the United Kingdom.

(3.) The Board of Trade may remove any surveyors of ships and fix and alter their remuneration, and may make regulations as to the performance of their duties, and in particular as to the manner in which surveys of passenger steamers⁽ⁱ⁾ are to be made, as to the notice to be given by them when surveys are required, and as to the amount and payment of any travelling or other expenses incurred by them in the execution of their duties, and may by such regulations determine the persons by whom and the conditions under which the payment of those expenses is to be made.

(4.) If a surveyor of ships demands or receives directly or indirectly any fee, remuneration, or gratuity whatever in respect of any duties performed by him under this Act otherwise than by the direction of the Board of Trade, he shall for each offence be liable to a fine not exceeding fifty pounds^(k).

(5.) The duties of a surveyor of ships shall be performed under the direction of the Board of Trade, and in accordance with the regulations made by that Board.

725.—(1.) A surveyor of ships^(l) in the execution of his duties may go on board any steamship at all reasonable times, and inspect the same or any part thereof, or any of the machinery, boats, equipments, or articles on board thereof, or any certificates of the master^(m), mate, or engineer to which the provisions of this Act⁽ⁿ⁾ or any of the regulations made under this Act apply, not unnecessarily detaining or delaying the ship from proceeding on any voyage, and if in consequence of any accident to the ship or for any other reason they consider it necessary

Power of
surveyor
for pur-
pose of
survey of
ships.
1854, s.
306.

(i) Defined, § 267.

(k) Procedure, §§ 680-684; fine, how applicable, §§ 699, 716.

(l) § 247.

(m) Defined, § 742.

(n) §§ 92, *et seq.*

so to do, may require the ship to be taken into dock for the purpose of surveying the hull thereof.

(2.) If any person hinders any surveyor of ships (*o*) from going on board any steamship or otherwise impedes him in the execution of his duties under this Act, that person shall for each offence be liable to a fine not exceeding five pounds (*p*).

Returns
by sur-
veyors to
Board of
Trade.
1854, a.
321.

726.—(1.) Surveyors of ships (*o*) shall make such returns to the Board of Trade as that Board may require with respect to the build, dimensions, draught, burden, rate of sailing, room for fuel, and the nature and particulars of machinery and equipments of ships (*q*) surveyed by them.

(2.) The owner (*r*), master (*q*), and engineer of any ship so surveyed shall, on demand, give to the surveyors all such information and assistance within his power as they require for the purpose of those returns.

(3.) If any owner (*r*), master (*q*), or engineer, on being applied to for that purpose, fails (*s*) without reasonable cause to give any such information or assistance, he shall for each offence be liable to a fine not exceeding five pounds (*p*).

Appoint-
ment of
surveyors
in colonies
50 & 51
Vict. c. 62,
s. 8. See
1854, a. 31.

727. The governor (*t*) of a British possession (*u*) may appoint and remove surveyors of ships within the limits of the possession for any purposes of this Act to be carried into effect in that possession.

Board of Trade Inspectors.

Appoint-
ment of in-
spectors to
report on
accidents,
&c.
1854, a. 14.

728. The Board of Trade may as and when they think fit appoint any person as an inspector to report to them—

(*a*.) upon the nature and causes of any accident or damage which any ship has sustained or caused, or is alleged to have sustained or caused ; or

(*b*.) whether the provisions of this Act, or any regulations made under or by virtue of this Act, have been complied with ; or

(*o*) § 724.

(*p*) Procedure, §§ 680-684 ; fine,
how applicable, §§ 699, 716.

(*q*) Defined, § 742.

(*r*) Note to § 58.

(*s*) Includes refusal ; § 742.

(*t*) Int. Act, 1889, § 18, s. 6.

(*u*) Ibid. s. ?.

- (c.) whether the hull and machinery of any steamship are sufficient and in good condition.

729.—(1.) An inspector so appointed (in this Act referred to as a Board of Trade inspector) and any person having the powers of a Board of Trade inspector (x)—

Powers of inspectors 1854, s. 15. 24 & 25 Vict. c. 10, s. 24. 30 & 31 Vict. c. 114, s. 45.

- (a.) may go on board any ship (y) and inspect the same or any part thereof, or any of the machinery, boats, equipments, or articles on board thereof to which the provisions of this Act apply, not unnecessarily detaining or delaying her from proceeding on any voyage; and
- (b.) may enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make; and
- (c.) may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for the purpose of his report, and may require answers or returns to any inquiries he thinks fit to make; and
- (d.) may require and enforce the production of all books, papers, or documents which he considers important for the purpose of his report; and
- (e.) may administer oaths, and may, in lieu of requiring or administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

(2.) Every witness summoned under this section shall be allowed such expenses as would be allowed to a witness attending on subpoena to give evidence before any court of record, or if in Scotland to a witness attending on citation the Court of Justiciary; and in case of any dispute as to the amount of those expenses, the same shall be referred in England or Ireland to one of the masters or registrars of the High Court (z), and in Scotland to the Queen's and

(x) See list of such persons in Index; head, "Inspector."

(y) Defined, § 742.

(z) Admiralty Division, under Merchant Shipping Rules, 1894, s. 1. See Appendix II.

Lord Treasurer's Remembrancer, and the officer shall, on request made to him for that purpose under the hand of the inspector or person having the powers of an inspector (*a*), ascertain and certify the proper amount of those expenses.

(8.) If any person refuses to attend as a witness before a Board of Trade inspector (*b*) or before any person having the powers of a Board of Trade inspector (*a*), after having been required to do so in manner provided by this section and after having had a tender made to him of the expenses (if any) to which he is entitled under this section, or refuses or neglects to make any answer, or to give any return, or to produce any document in his possession, or to make or subscribe any declarations which an inspector (*b*) or person having the powers of an inspector (*a*) is hereby empowered to require, that person shall for each offence be liable to a fine not exceeding ten pounds (*c*).

Penalty
for ob-
structing
inspectors
in the
execution
of their
duty.

1854, s. 16.

730. If any person wilfully impedes a Board of Trade inspector (*b*) or any person having the powers of a Board of Trade inspector (*a*) in the execution of his duty, whether on board a ship (*d*) or elsewhere, that person shall for each offence be liable to a fine not exceeding ten pounds (*c*), and may be seized or detained by the inspector (*b*) or person having the powers of an inspector (*a*), or by any person or persons whom that inspector or person may call to his assistance, until he can be conveniently taken before some justice of the peace or other officer having proper jurisdiction.

Exemption from Rates and Harbour Dues.

Exemption
from
rates.
1854, s.
430.

731. All lighthouses (*d*), buoys, beacons (*d*), and all light dues (*e*), and other rates, fees, or payments accruing to or forming part of the mercantile marine fund (*f*), and all premises or property belonging to or occupied by any of the general lighthouse authorities (*g*) or by the Board of

(*a*) See list of such persons in Index; head, "Inspector."

(*b*) § 729, s. 1.

(*c*) Procedure, §§ 680-684; fines, how applicable, §§ 699, 716.

(*d*) Defined, § 742.

(*e*) Part XI. § 643.

(*f*) Part XII.

(*g*) § 634.

Trade, which are used or applied for the purposes of any of the services for which those dues, rates, fees, and payments are received, and all instruments or writings used by or under the direction of any of the general lighthouse authorities (*h*) or of the Board of Trade in carrying on those services, shall be exempted from all public, parochial, and local taxes, duties, and rates of every kind.

732. All vessels (*i*) belonging to or used by any of the general lighthouse authorities or the Board of Trade shall be entitled to enter, resort to, and use any harbours (*j*), ports (*j*), docks, or piers in the United Kingdom without payment of any tolls, dues, or rates of any kind.

Exemption from harbour dues. 1854, s. 431. 1862, s. 48.

Private Signals.

733.—(1.) If a shipowner desires to use for the purpose of a private code any rockets, lights, or other similar signals, he may register those signals with the Board of Trade, and that Board shall give public notice of the signals so registered in such manner as they think requisite for preventing those signals from being mistaken for signals of distress (*k*) or signals for pilots (*l*).

Registration of private code of signals. 56 & 37 Vict. c. 85, s. 21.

(2.) The Board may refuse to register any signals which in their opinion cannot easily be distinguished from signals of distress (*k*) or signals for pilots (*l*).

(3.) Where a signal has been registered under this section, the use or display thereof by any person acting under the authority of the shipowner in whose name it is registered shall not subject any person to any fine or liability under this Act for using or displaying signals improperly (*m*).

Application of Act to Foreign Ships(j) by Order in Council(n).

734. Where it has been made to appear to Her Majesty

Application by

(*k*) § 634.

(*i*) Wider than "ships;" see § 742, and note.

(*j*) Defined, § 742.

(*k*) § 434.

(*l*) § 615, and Appendix.

(*m*) §§ 434, s. 2, 614, 615.

(*n*) This clause does not prevent clauses, expressly applying to foreign ships, from applying, though there is no Order in Council as to their particular state; cf. *Chalmers v. Scopenich* (1892), 1 Q. B., 735.

Order in Council of provisions of Merchant Shipping Acts to foreign ships. 39 & 40 Vict. c. 80, s. 37.

that the Government of any foreign country is desirous that any of the provisions of this Act, or of any Act hereafter to be passed amending the same, which do not apply to the ships (*n*) of that country, should so apply and there are no special provisions in this Act for that application (*o*), Her Majesty in Council (*p*) may order that such of those provisions as are in the Order specified shall (subject to the limitations, if any, contained therein) apply to the ships of that country, and to the owners (*q*), masters (*n*), seamen (*n*), and apprentices of those ships, when not locally within the jurisdiction of the government of that country, in the same manner in all respects as if those ships were British ships.

Powers of Colonial Legislature (r).

Power of Colonial Legislatures to alter provisions of Act. 1854, s. 547.

735.—(1.) The Legislature (*r*) of any British possession (*s*) may by any Act or Ordinance, confirmed by Her Majesty in Council (*p*), repeal, wholly or in part, any provisions of this Act (other than those of the Third Part thereof which relate to emigrant ships), relating to ships registered in that possession; but any such Act or Ordinance shall not take effect until the approval of Her Majesty has been proclaimed in the possession (*s*), or until such time thereafter as may be fixed by the Act or Ordinance for the purpose.

(2.) Where any Act or Ordinance of the legislature (*r*) of a British possession (*s*) has repealed in whole or in part as respects that possession any provision of the Acts repealed by this Act, that Act or Ordinance shall have the same effect in relation to the corresponding provisions of this Act as it had in relation to the provision repealed by this Act.

Regulation of

736. The Legislature (*r*) of a British possession (*s*), may,

(*n*) Defined, § 742.

(*o*) Such as § 84, as to tonnage regulations; § 238, as to deserters from foreign ships; § 424, Collision Regulations; § 445, provisions as to load-line; § 545, as to life salvage, in all which cases there is express power to apply such provisions to

foreign ships, by Order in Council; or such as § 462, expressly applying provisions as to detention to foreign ships.

(*p*) § 738.

(*q*) § 58, note.

(*r*) Int. Act, 1889, § 18, s. 7.

(*s*) Ibid. § 18, s. 2.

by any Act or Ordinance, regulate the coasting trade of that British possession (*r*), subject in every case to the following conditions :

coasting
trade by
colonial
legisla-
ture.
32 & 33
Vict. c. 11,
s. 4.

- (a.) the Act or Ordinance shall contain a suspending clause providing that the Act or Ordinance shall not come into operation until Her Majesty's pleasure thereon has been publicly signified in the British possession (*r*) in which it has been passed :
- (b.) the Act or Ordinance shall treat all British ships (*s*) (including the ships of any other British possession (*r*)) in exactly the same manner as ships of the British possession in which it is made :
- (c.) where by treaty made before the passing of the Merchant Shipping (Colonial) Act, 1869 (*t*) (that is to say, before the thirteenth day of May eighteen hundred and sixty-nine), Her Majesty has agreed to grant to any ships (*u*) of any foreign State any rights or privileges in respect of the coasting trade of any British possession (*r*), those rights and privileges shall be enjoyed by those ships for so long as Her Majesty has already agreed or may hereafter agree to grant the same, anything in the Act or ordinance to the contrary notwithstanding.

Provision for Foreign Places where Her Majesty has Jurisdiction.

737. Where under this Act anything is authorized to be done by to or before a British consular officer (*x*), and in any place outside Her Majesty's dominions in which Her Majesty has jurisdiction (*y*) there is no such officer, such thing may be done in that place by to or before such officer as Her Majesty in Council may direct (*z*).

Provision
for foreign
places
where Her
Majesty
has juris-
diction.

Orders in Council.

738.—(1.) Where Her Majesty has power under this Act, or any Act hereafter to be passed amending the same, to

Provision
as to

(*r*) Int. Act, 1889, § 18, s. 2.

(*s*) Note to § 1.

(*t*) 32 & 33 Vict. c. 11.

(*u*) Defined. § 712.

(*x*) Int. Act, 1889, § 12, s. 20.

(*y*) e.g. by treaty in Turkey, China, Japan; or in Africa.

(*z*) § 738.

Orders in
Council.
15 & 16

Vict. c. 26,

ss. 4, 5.

1862, ss.

63, 64.

32 & 33

Vict. c. 11,

s. 8.

39 & 40

Vict. c. 80,

s. 38.

make an Order in Council, Her Majesty may from time to time make that Order in Council, and by Order in Council revoke alter or add to any Order so made.

(2.) Every such Order in Council shall be published in the "London Gazette" (a), and shall be laid before both Houses of Parliament within one month after it is made, if Parliament be then sitting, or if not, within one month after the then next meeting of Parliament.

(3.) Subject to any special provisions of this Act, upon the publication of any such Order the Order shall, as from the date of the publication or any later date mentioned in the Order, take effect as if it were enacted by Parliament.

Transmission and Publication of Documents.

Notices,
&c., to be
in writing
and pro-
vision as
to sending
by post.

739.—(1.) Where by this Act any notice, authority, order, direction, or other communication is required or authorized to be given or made by the Board of Trade, or the Commissioners of Customs, or the Governor (b) of a British possession (c), to any person not being an officer of such Board, or Commissioners, or Governor (b), the same shall be given or made in writing (d).

(2.) Where any notice or document is by this Act required or authorized to be transmitted or sent (e), the same may be transmitted or sent by post.

Publica-
tion in
"London
Gazette."

740. Where a document is required by this Act to be published in the London Gazette, it shall be sufficient if notice thereof is published in accordance with the Rules Publication Act, 1893 (f).

Exemp-
tion of Her
Majesty's
ships.

1854, s. 4.

46 & 41

Vict. c. 16,

s. 2.

Exemption of Her Majesty's Ships.

741. This Act shall not, except where specially provided (g), apply to ships belonging to Her Majesty.

(a) Cf. § 740.

(b) Int. Act, 1889, § 18, s. 6.

(c) Ibid. s. 2.

(d) Ibid. § 20.

(e) Ibid. § 26.

(f) 56 & 57 Vict. c. 66, § 1, requiring forty days' notice of proposed

Rules; § 3, s. 3, rendering it sufficient that there is a notice in the Gazette that Rules have been made, and of the place where they can be obtained.

(g) Cf. Index: "Queen's ships."

Definitions and Provisions as to Application of Act.

742. In this Act, unless the context otherwise requires, Definitions. the following expressions have the meanings hereby assigned to them that is to say—

- “VESSEL” (h) includes any ship or boat, or any other description of vessel used in navigation ;
- “SHIP” (i) includes every description of vessel used in navigation not propelled by oars ;
- “FOREIGN-GOING SHIP” includes every ship (k) employed (l) in trading or going between some place or places in the United Kingdom, and some place or places situate beyond the following limits ; that is to say, the coasts of the United Kingdom, the Channel Islands, and Isle of Man, and the continent of Europe between the River Elbe and Brest inclusive ;

(h) The cases on these definitions have decided that they only include in the meaning the things specified, and do not exclude things not specified ; e.g. the definition of “ship” does not necessarily exclude a vessel used in navigation, and propelled by oars. Thus in *The Mac* (1882), 7 P. D. 126, a hopper or dredging barge, 70 feet long by 19 feet beam, with no masts or sails or oars, which was towed about and used for dredging, was held by the Court of Appeal to be a ship, Lord Coleridge saying it was unnecessary she should be used in navigation ; Brett, L.J., that she was used in navigation, and was a ship in the popular sense of the word ; Cotton, L.J., saying that she was propelled by towing, and carried mud, with a crew on board. In *Ex parte Ferguson* (1871), L. R. 6 Q. B. 280, a fishing coble, 24 feet long, 10 tons burden, partly decked, with movable masts and oars, was held to be a ship within the Act, Blackburn, J., saying that a ship was that which substantially went to sea. *Semble*, that a boat propelled by oars only would not be a ship, but would be a vessel. In *The C. S. Butler* (1874), L. R. 4 A. & E. 238, Sir R. Phillimore appears to have held a 60-ton lighter, with masts and oars, which

never went below Gravesend, not a ship, for the purpose of the Collision Regulations as to lights. *Sult Union v. Wood* (1893), 1 Q. B. 370, turns on the words “sea-going ship ;” and *Mayor of Southport v. Morris* (1893), 1 Q. B. 359, on the words “passenger steamer.” On “British ship ;” see note to § 1. A ship may cease to be a ship while intact ; e.g. in *European Co. v. P. & O. Co.* (1866), 2 Asp. M. C. O. S. 351, a ship which had for four years been used as a stationary coal-hulk was held to have ceased to be a “ship” within the Act.

(i) See previous note.

(k) Defined, § 742.

(l) A question may arise as to whether “employed” means on the particular voyage, or generally ; for instance, whether an Orient liner, which crosses from Tilbury to Antwerp, is a home-trade ship while so employed. In favour of the particular employment at the time being considered, is the case of *Courtney v. Cole* (1887), 19 Q. B. D 447 ; against it the cases of *The Lloyds or Sea Queen* (1863), Br. & L. 359 ; *The Agricola* (1843), 2 W. Rob. 10 ; *The Winstead* (1895), P. 170. The weight of authority seems in favour of the general character of the ship being considered, rather than her momentary occupation.

- “**HOME-TRADE SHIP**” includes every ship employed (*l*) in trading or going within the following limits; that is to say, the United Kingdom, the Channel Islands, and Isle of Man, and the continent of Europe between the River Elbe and Brest inclusive;
- “**HOME-TRADE PASSENGER SHIP**” means every home-trade ship (*m*) employed in carrying passengers (*n*);
- “**MASTER**” includes every person (except a pilot (*m*)) having command or charge of any ship (*o*);
- “**SEAMAN**” includes every person (except masters (*m*), pilots (*m*), and apprentices duly indentured and registered (*p*)), employed or engaged in any capacity on board any ship (*q*);
- “**WAGES**” includes emoluments;
- “**EFFECTS**” includes clothes and documents;
- “**SALVOR**” means, in the case of salvage services rendered by the officers or crew or part of the crew of any ship belonging to Her Majesty, the person in command of that ship;
- “**PILOT**” means any person not belonging to a ship who has the conduct thereof;
- “**COURT**” in relation to any proceeding includes any magistrate or justice having jurisdiction in the matter to which the proceeding relates;
- “**COLONIAL COURT OF ADMIRALTY**” has the same meaning as in the Colonial Courts of Admiralty Act 1890 (*r*);
- “**A COMMISSIONER FOR OATHS**” means a commissioner for oaths within the meaning of the Commissioners for Oaths Act 1889 (*s*);
- “**CHIEF OFFICER OF CUSTOMS**” includes the collector, superintendent, principal coast officer, or other chief officer of customs at each port;
- “**SUPERINTENDENT**” shall, so far as respects a British Possession (*t*), include any shipping master or other

(*l*) See note (*l*), p. 547.

(*m*) Defined, § 742.

(*n*) Cf. notes to § 267.

(*o*) Int. Act, 1889, § 20.

(*p*) §§ 105-109.

(*q*) See note to § 113.

(*r*) 53 & 54 Vict. c. 27, § 2.

(*s*) 52 & 53 Vict. c. 10, §§ 1, ss. 1, 13.

(*t*) Int. Act, 1889, § 18, s. 2.

officer discharging in that possession the duties of a superintendent (*u*);

"CONSULAR OFFICER," when used in relation to a foreign country, means the officer recognized by Her Majesty as a consular officer of that foreign country (*x*);

"BANKRUPTCY" includes insolvency;

"REPRESENTATION" means probate, administration, confirmation, or other instrument constituting a person the executor, administrator, or other representative of a deceased person;

"LEGAL PERSONAL REPRESENTATIVE" means the person so constituted executor, administrator, or other representative, of a deceased person;

"NAME" includes a surname;

"PORT" includes place;

"HARBOUR" includes harbours properly so called, whether natural or artificial, estuaries, navigable rivers, piers, jetties, and other works in or at which ships can obtain shelter, or ship and unship goods or passengers;

"TIDAL WATER" means any part of the sea and any part of a river within the ebb and flow of the tide at ordinary spring tides, and not being a harbour (*y*);

"HARBOUR AUTHORITY" includes all persons or bodies of persons, corporate or unincorporate, being proprietors of, or intrusted with, the duty or invested with the power of constructing, improving, managing, regulating, maintaining, or lighting a harbour (*y*);

"CONSERVANCY AUTHORITY" includes all persons or bodies of persons, corporate or unincorporate, intrusted with the duty or invested with the power of conserving, maintaining, or improving the navigation of a tidal water (*y*);

"LIGHTHOUSE" shall in addition to the ordinary meaning of the word include any floating and other light

(*u*) Cf. § 247.

(*x*) Cf. Int. Act, 1889, § 12, s. 20.

(*y*) Defined, § 742.

- exhibited for the guidance of ships, and also any sirens and any other description of fog signals, and also any addition to a lighthouse of any improved light, or any siren, or any description of fog signal ;
- "BUOYS AND BEACONS" includes all other marks and signs of the sea ;
- "THE TRINITY HOUSE" shall mean the master, wardens and assistants of the guild, fraternity, or brotherhood of the most glorious and undivided Trinity and of St. Clement in the parish of Deptford Strond in the county of Kent, commonly called the corporation of the Trinity House of Deptford Strond ;
- "THE COMMISSIONERS OF IRISH LIGHTS" means the body incorporated by that name under the local Act of the session held in the thirtieth and thirty-first years of the reign of Her present Majesty chapter eighty-one, intituled "An Act to alter the constitution of the Corporation for preserving and improving the Port of Dublin and for other purposes connected with that body and with the Port of Dublin Corporation" and any Act amending the same ;
- "LIFEBOAT SERVICE" means the saving, or attempted saving of vessels, or of life, or property on board vessels, wrecked or aground or sunk, or in danger of being wrecked or getting aground or sinking.
- Any reference to failure to do any act or thing shall include a reference to refusal to do that act or thing.

Applica-
tion of Act
to ships
propelled
by elec-
tricity, &c.
52 & 53
Vict. c. 46,
s. 5.

743. Any provisions of this Act applying to steamers or steamships shall apply to ships propelled by electricity or other mechanical power with such modifications as the Board of Trade may prescribe for the purpose of adaptation.

Applica-
tion of Act
to certain

744. Ships engaged in the whale, seal, walrus, or Newfoundland cod fisheries shall be deemed to be foreign-going ships (x) for the purpose of this Act, and not fishing boats,

with the exception of ships engaged in the Newfoundland fishing
cod fisheries which belong to ports in Canada or New- vessels.
foundland (y). 1883, c. 53.

Repeal and Savings.

745.—(1.) The Acts mentioned in the Twenty-second Repeal.
Schedule to this Act are hereby repealed to the extent
specified in the third column of that schedule.

Provided that—

- (a.) Any Order in Council, licence, certificate, byelaw,
rule, or regulation made or granted under any enact-
ment hereby repealed shall continue in force as if it
had been made or granted under this Act (z);
- (b.) Any officer appointed, any body elected or constituted,
and any savings bank or office established, under any
enactment hereby repealed shall continue and be
deemed to have been appointed, elected, constituted,
or established, as the case may be, under this Act;
- (c.) Any document referring to any Act or enactment
hereby repealed shall be construed to refer to this Act;
or to the corresponding enactment of this Act;
- (d.) Any penalty may be recovered, and any offence may
be prosecuted, under any provision of the Merchant
Shipping Acts, 1854 to 1892, which is not repealed
by this Act, in the same manner as fines may be
recovered and offences prosecuted under this Act;
- (e.) Ships registered under the Merchant Shipping Act, 17 & 18,
1854, and the Acts amending the same, or duly Vict. c.
registered before the passing of the Merchant Shipping 120 (a).
Act, 1854, shall be deemed to have been registered
under this Act.
- (f.) Nothing in this Act shall affect the Behring Sea 57 & 58
Award Act, 1894, and that Act shall have effect as if Vict. c. 2.
this Act had not passed.
- (2.) The mention of particular matters in this section
shall not be held to prejudice or affect the general applica-

(y) Preliminary Note to Part IV.

(z) This continues the existing
Collision Regulations, Rules for Life-

saving Appliances, &c.

(a) So in Act, should be "c. 104."

tion of section thirty-eight of the Interpretation Act, 1889 (a), with regard to the effect of repeals.

(3.) The tonnage of every ship not measured or re-measured in accordance with the Merchant Shipping Tonnage Act, 1889 (b), shall be estimated for all purposes as if any deduction prohibited by the Merchant Shipping (Tonnage) Act, 1889, had not been made, and the particulars relating to the ship's tonnage in the registry book and in her certificate of registry shall be corrected accordingly (c).

Savings. **746.**—(1.) Nothing in this Act shall affect the Chinese Passengers Act, 1855 (d).

(2.) Any local Act which repeals or affects any provisions of the Acts repealed by this Act shall have the same effect on the corresponding provisions of this Act as it had on the said provisions repealed by this Act.

43 & 44
Vict. c. 16,
s. 7. (3.) Nothing in this Act shall affect the rating of any seaman who was rated and served as A.B. before the second day of August one thousand eight hundred and eighty (e).

Short Title and Commencement.

Short title. **747.** This Act may be cited as the Merchant Shipping Act, 1894.

**Com-
mence-
ment.** **748.** This Act shall come into operation on the first day of January, one thousand eight hundred and ninety-five.

(a) 52 & 53 Vict. c. 63, § 38. See Appendix.

(b) 52 & 53 Vict. c. 43.

(c) The Act of 1889 prohibited certain deductions from gross tonnage; and gave shipowners five years to have their tonnage rectified. This five years expired on August 26, 1894, and therefore the section re-

quires the rectification at once.

(d) This refers to § 126, which originally was the first part of a section, which this completed. By the irony of "consolidation," the two parts of the section now find themselves 620 sections apart.

(e) 18 & 19 Vict. c. 104.

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*Documents
of which
the forms
are to be
prescribed
by the
Commissioners of
Customs
and
sanctioned
by the
Board of
Trade.*

§§ 24, 31,
37, 65.

SCHEDULES.

FIRST SCHEDULE.

PART I.

[The forms in this Part of the Schedule are subject to alteration from time to time by the Commissioners of Customs, with the consent of the Board of Trade (a).]

FORM A.—BILL OF SALE (b).

Official No.	Name of ship.	No., Date, and Port of registry.		
No., date, and port of previous registry (if any).				
Whether British or foreign built.	Whether a sailing or steam ship; and if a steam ship how propelled.	Where built.	When built.	Name and address of builders
No. of decks	Head	Length from fore part of stem, under the bowsprit, to the aft side of the head of the stern-post		Feet. Tenths.
No. of masts	Framework and description of vessel	Length at quarter of depth from top of weather deck at side amidships to bottom of keel		
Rigged	No. of bulkheads	Main breadth to outside of plank		
Stern	No. of water ballast tanks and their capacity in tons	Depth in hold from tonnage deck to ceiling at midships		
Build.		Depth in hold from upper deck to ceiling at midships in the case of three decks and upwards		
Galleries		Depth from top of beam amidships to top of keel		
		Depth from top of deck at side amidships to bottom of keel		
		Round of beam		
		Length of engine room, if any		

(a) There is no logical reason why the forms in Part I. of the Schedule should be set out in full, and the forms in Part II. should not. Both may be altered under § 65.

(b) § 24.

herein-before expressed to be transferred, and that the same are free from incumbrances ^(s)

(s) If there be any subsisting mortgage, or outstanding certificate of mortgage, add, "save as appears by the registry of the said ship."

In witness whereof ha hereunto subscribed name and affixed seal this day of one thousand eight hundred and

Executed by the above-named in the presence of

NOTE.—A purchaser of a registered British vessel does not obtain a complete title until the bill of sale has been recorded at the port of registry of the ship; and neglect of this precaution may entail serious consequences.

FORM B.—MORTGAGE (c).

[Insert description of ship and particulars as in Bill of Sale.]

(i.) TO SECURE PRINCIPAL SUM AND INTEREST.

(a) "I" or "we." (e) the undersigned , in consideration of this day lent to (b) by (c) "Myself" or "ourselves." do hereby for (c) and (d) heirs, covenant with the said , firstly, That (e) or (d) heirs, executors, or administrators, will pay to the said the said sum of , together with interest thereon at the rate of per cent. per annum on the day of next; and secondly, that if the said principal sum is not paid on the said day, (e) or (d) heirs, executors, or administrators, will, during such time as the same or any part thereof remains unpaid, pay to the said interest on the whole or such part thereof as may for the time being remain unpaid, at the rate of per cent. per annum, by equal half-yearly payments on the (f) day of and day of in every year; and for better securing to the said the repayment in manner aforesaid of the said principal sum and interest, (e) hereby mortgage to the said shares, of which (e) the owner in the ship above particularly described, and in her boats, guns, ammunition, small arms, and appurtenances.

Lastly, (e) for (c) and (d) heirs, covenant with the said and assigns that (e) ha power to mortgage in manner aforesaid the above-mentioned shares, and that the same are free from incumbrances ^(s)

In witness whereof (e) ha hereto subscribed (d) name and affixed (d) seal this day of one thousand eight hundred and

Executed by the above-named in the presence of

NOTE.—The prompt registration of a mortgage deed at the port of registry of the ship is essential to the security of the mortgage, as a mortgage takes its priority from the date of production for registry, not from the date of the instrument.

(ii.) TO SECURE ACCOUNT CURRENT, &c.

Whereas (*)

Now (b) the undersigned, in consideration of the premises for (c) and (d) heirs, assigns, mortgagee (describing him); and describe the nature of the transaction so as to show how the amount of principal and interest due at any given time is to be ascertained, and the manner and time of payment.

to pay to him or them the sums for the time being due on this security, whether by way of principal or interest, at the times and manner aforesaid. And for the purpose of better securing the payment of such sums as last aforesaid, (b) do hereby mortgage to the said

shares, of which (f) the owner in the Ship above particularly described, and in her boats, guns, ammunitions, small arms, and appurtenances.

Lastly, (b) for (c) and (d) heirs, covenant with the said and (e) assigns that (b) ha power to mortgage in manner aforesaid the above-mentioned shares, and that the same are free from incumbrances (*)

In witness whereof (*) ha hereto subscribed (b) name and affixed (d) seal this day of

One thousand eight hundred and

Executed by the above-named in the presence of

FORM C.—TRANSFER OF MORTGAGE (d).

[To be indorsed on the original mortgage.]

(A) the within-mentioned, in consideration of this day paid to (b) by (b) "I" or "we," (b) "Me" or "us," (c) "Him" or "them," (d) "I" or "we," (e) "My" or "our."

, hereby transfer to (c) the benefit of the within written security.

In witness whereof (d) ha hereunto subscribed (c) name and affixed (e) seal this day of one thousand eight hundred and

Executed by the above-named in the presence of

PART II.

Documents of which the forms are to be prescribed by the Commissioners of Customs and sanctioned by the Board of Trade (e).

Certificate of surveyor (§ 6).

Declaration of ownership by individual owner (§ 9).

(d) § 37.

(e) They may be altered by the same authorities under § 65, s. 1. The forms at present in use, which are continued by § 745, s. 1, are set

out in the Appendix, *post*, but are now under revision by a committee, which may make slight alterations as to the record of tonnage.

Declaration of ownership on behalf of a corporation as owner (§ 9).

Certificate of registry (§ 14).

Provisional certificate (§ 22).

Declaration of ownership by individual transferee (§ 25).

Declaration of ownership on behalf of a corporation as transferee (§ 25).

Declaration of owner taking by transmission (§ 27).

Declaration by mortgagee taking by transmission (§ 38).

Certificate of mortgage (§§ 39, 43).

Certificate of sale (§§ 39, 44).

Revocation of certificate of sale or mortgage (§ 46).

SECOND SCHEDULE.

MEASUREMENT OF TONNAGE.

Rule I.

- (1.) Measure the length of the ship in a straight line along the upper side of the tonnage deck from the inside of the inner plank (average thickness) at the side of the stem to the inside of the midship stern timber or plank there, as the case may be (average thickness), deducting from this length what is due to the rake of the bow in the thickness of the deck, and what is due to the rake of the stern timber in the thickness of the deck, and also what is due to the rake of the stern timber in one third of the round of the beam; divide the length so taken into the number of equal parts required by the following table, according to the class in such table to which the ship belongs:

TABLE.

- Class 1. Ships of which the tonnage deck is according to the above measurement 50 feet long or under, into 4 equal parts:
- Class 2. Ships of which the tonnage deck is according to the above measurement above 50 feet long and not exceeding 120, into 6 equal parts:
- Class 3. Ships of which the tonnage deck is according to the above measurement above 120 feet long and not exceeding 180, into 8 equal parts:
- Class 4. Ships of which the tonnage deck is according to the

*Rules for
Measure-
ment of
Tonnage.*

Sections
77, 78, 81,
85.

RULE I.

Measure-
ment of
ships to be
registered
and other
ships of
which the
hold is
clear.
1854, s. 21.
Lengths.

above measurement above 180 feet long and not exceeding 225, into 10 equal parts :

Class 5. Ships of which the tonnage deck is according to the above measurement above 225 feet long, into 12 equal parts.

- (2.) Then the hold being first sufficiently cleared to admit Transverse areas. of the required depths and breadths being properly taken, find the transverse area of the ship at each point of division of the length as follows:—Measure the depth at each point of division, from a point at a distance of one third of the round of the beam below the tonnage deck, or, in case of a break, below a line stretched in continuation thereof, to the upper side of the floor timber at the inside of the limber strake, after deducting the average thickness of the ceiling which is between the bilge planks and limber strake (subject, however, to the provisions of this Act in the case of a ship constructed with a double bottom for water ballast) (*f*) ; then if the depth at the midship division of the length do not exceed sixteen feet, divide each depth into four equal parts; then measure the inside horizontal breadth at each of the three points of division, and also at the upper and lower points of the depth, extending each measurement to the average thickness of that part of the ceiling which is between the points of measurement; number these breadths from above (i.e. numbering the upper breadth one, and so on down to the lowest breadth); multiply the second and fourth by four, and the third by two; add these products together, and to the sum add the first breadth and the fifth; multiply the quantity thus obtained by one third of the common interval between the breadths, and the product shall be deemed the transverse area; but if the midship depth exceed sixteen feet, divide each depth into six equal parts instead of four, and measure as before directed the horizontal breadths at the five points of division, and also at the upper and lower points of the depth; number them from above as before; multiply the second, fourth, and sixth by four, and the third and fifth by two; add these products together, and to the sum add the first breadth and the seventh; multiply the quantity thus obtained by one third of the common interval between the breadths, and the product shall be deemed the transverse area.

- (3.) Having thus ascertained the transverse area at each point of division of the length of the ship as required by the above table, proceed to ascertain the register tonnage under the tonnage deck in the following manner:—Number the areas respectively 1, 2, 3, &c., No. 1 being at the extreme limit of the length at the bow, and the last No. at the

In case of
decks
above the
tonnage
deck.

extreme limit at (f) the length at the stern; then, whether the length be divided according to the table into four or twelve parts as in classes 1 and 5, or any intermediate number as in classes 2, 3, and 4, multiply the second and every even numbered area by four, and the third and every odd numbered area (except the first and last) by two: add these products together, and to the sum add the first and last if they yield anything; multiply the quantity thus obtained by one third of the common interval between the areas, and the product will be the cubical contents of the space under the tonnage deck; divide this product by one hundred, and the quotient, being the tonnage under the tonnage deck, shall be deemed to be the register tonnage of the ship subject to any additions and deductions under this Act.

- (4.) If the ship had a third deck, commonly called a spar deck (g), the tonnage of the space between it and the tonnage deck shall be ascertained as follows:—

Measure in feet the inside length of the space at the middle of its height from the plank at the side of the stem to the lining on the timbers at the stern, and divide the length into the same number of equal parts into which the length of the tonnage deck is divided as above directed; measure (also at the middle of its height) the inside breadth of the space at each of the points of division, also the breadth at the stem and the breadth at the stern; number them successively 1, 2, 3, &c., commencing at the stem; multiply the second and all the other even numbered breadths by four, and the third and all the other odd numbered breadths (except the first and the last) by two; to the sum of these products add the first and last breadths; multiply the whole sum by one third of the common interval between the breadths, and the result will give in superficial feet the mean horizontal area of the space; measure the mean height of the space, and multiply by it the mean horizontal area, and the product will be the cubical contents of the space; divide this product by one hundred, and the quotient shall be deemed to be the tonnage of the space and shall be added to the tonnage of the ship ascertained as aforesaid. If the ship has more than three decks, the tonnage of each space between decks above the tonnage deck shall be severally ascertained in manner above described, and shall be added to the tonnage of the ship ascertained as aforesaid.

(f) *Sic*: It was "of" in the Act of 1851.

(g) Cf. *The Fear*; *Lord Advocate v. Clyde Navigation Co.* (1875), L.R.

2 H. L. Sc. 409, where an awning deck with openings was held not to be a spar-deck within this rule.

- (5.) If there be a break, a poop, or any other permanent Poop, closed-in space on the upper deck (*h*), available for cargo or deck-stores, or for the berthing or accommodation of passengers house, or crew, the tonnage of that space shall be ascertained as and any fore-castle, follows:—measure the internal mean length of the space other closed-in in feet, and divide it into two equal parts; measure at space. the middle of its height three inside breadths, namely, one at each end and the other at the middle of the length; then to the sum of the end breadths add four times the middle breadth, and multiply the whole sum by one third of the common interval between the breadths, the product will give the mean horizontal area of the space; then measure the mean height, and multiply by it the mean horizontal area; divide the product by one hundred, and the quotient shall be deemed to be the tonnage of the space, and shall be added to the tonnage under the tonnage deck ascertained as aforesaid. Provided that no addition shall be made in respect of any building erected for the shelter of deck passengers, and approved by the Board of Trade.

*Rule II.***RULE II.**

- (1.) Measure the length on the uppermost deck from the outside of the outer plank at the stem to the aftside of the stern post, deducting therefrom the distance between the aftside of the stern post and the rabbet of the stern post at the point where the counter plank crosses it; measure also the greatest breadth of the ship to the outside of the outer planking or wales, and then, having first marked on the outside of the ship on both sides thereof the height of the upper deck at the ship's sides, girt the ship at the greatest breadth in a direction perpendicular to the keel from the height so marked on the outside of the ship on the one side to the height so marked on the other side by passing a chain under the keel; to half the girth thus taken add half the main breadth; square the sum; multiply the result by the length of ship taken as aforesaid; then multiply this product by the factor .0018 (eighteen ten-thousandths) in the case of ships built of wood, and .0021 (twenty-one ten-thousandths) in the case of ships built of iron, and the product shall be deemed the register tonnage of the ship, subject to any additions and deductions under this Act.
- (2.) If there be a break, a poop, or closed-in space on the Poop, upper deck, the tonnage of that space shall be ascertained deck by multiplying together the mean length, breadth, and house, fore-castle,

(*h*) See note (*g*), p. 560.

and other
closed-in
spaces on
upper
deck.

depth of the space, and dividing the product by 100, and the quotient so obtained shall be deemed to be the tonnage of the space, and shall be added to the tonnage of the ship ascertained as aforesaid.

RULE III.

Rule III.

Measure-
ment of
allowance
for engine
room
space in
steam-
ships.

1854, s. 23.

35 & 36

Vict. c. 73,

s. 3.

See s.

78, s. 1 (b).

(1.) Measure the mean depth of the space from its crown to the ceiling at the limber strake, measure also three, or, if necessary, more than three breadths of the space at the middle of its depth, taking one of those measurements at each end, and another at the middle of the length; take the mean of those breadths; measure also the mean length of the space between the foremost and aftermost bulkheads or limits of its length, excluding such parts, if any, as are not actually occupied by or required for the proper working of the machinery: multiply together these three dimensions of length, breadth, and depth, divide the product by 100, and the result shall be deemed the tonnage of the space below the crown; then find the cubical contents of the space or spaces, if any, above the crown aforesaid, which are framed in for the machinery or for the admission of light and air, by multiplying together the length, depth, and breadth thereof; add such contents to the cubical contents of the space below the crown; divide the sum by 100; and the result shall (subject to the provisions herein-after contained) be deemed to be the tonnage of the space.

(2.) If in any ship in which the space for propelling power is to be measured the engines and boilers are fitted in separate compartments, the contents of each shall be measured severally in like manner, according to the above rules, and the sum of their several results shall be deemed to be the tonnage of the said space:

(3.) In the case of screw steamers in which the space for propelling power is to be measured, the contents of the shaft trunk shall be ascertained by multiplying together the mean length, breadth, and depth of the trunk, and dividing the product by 100:

(4.) If in any ship in which the space aforesaid is to be measured any alteration be made in the length or capacity of the spaces or if any cabins be fitted in the space, the ship shall be deemed to be a ship not registered until remeasurement.

RULE IV.

Rule IV.

Measure-
ment of
open ships.
1854, s. 24.
Of § 77,
s. 5 of this
Act.

IV. In ascertaining the tonnage of open ships the upper edge of the upper strake is to form the boundary line of measurement, and the depths shall be taken from an athwartship line, extended from upper edge to upper edge of the said strake at each division of the length.

THIRD SCHEDULE.

TABLE OF MAXIMUM FEES TO BE PAID FOR THE MEASURE-
MENT OF MERCHANT SHIPS.

			£	s.	d.	§ 83 of this Act. 36 & 37 Vict. c. 85, s. 80, sch. III.
For a ship under 50 tons register tonnage .	.	.	1	0	0	
„ from 50 to 100 tons „ .	.	.	1	10	0	
„ „ 100 to 200 „ „ .	.	.	2	0	0	
„ „ 200 to 500 „ „ .	.	.	3	0	0	
„ „ 500 to 800 „ „ .	.	.	4	0	0	
„ „ 800 to 1,200 „ „ .	.	.	5	0	0	
„ „ 1,200 to 2,000 „ „ .	.	.	6	0	0	
„ „ 2,000 to 3,000 „ „ .	.	.	7	0	0	
„ „ 3,000 to 4,000 „ „ .	.	.	8	0	0	
„ „ 4,000 to 5,000 „ „ .	.	.	9	0	0	
„ „ 5,000 and upwards „ .	.	.	10	0	0	

FOURTH SCHEDULE.

TABLE OF MAXIMUM FEES TO BE PAID BY APPLICANTS FOR
EXAMINATION.

For Certificates as Masters and Mates.

			£	s.	d.	§ 97 of this Act. 1854, s. 133, Table R. 1862, s. 7, Table B.
Certificate as Master . . . . .	.	.	2	0	0	
Certificate as Mate . . . . .	.	.	1	0	0	

For Certificates as Engineers.

Certificate as first-class engineer . . . . .	.	.	2	0	0	
Certificate as second-class engineer . . . . .	.	.	1	0	0	

FIFTH SCHEDULE.

REGULATIONS TO BE OBSERVED WITH RESPECT TO ANTI-
SCORBUTICS.

§ 200 of
this Act.

Furnishing of Anti-Scorbutics.

*Anti-
scorbutics.*

- (1.) The anti-scorbutics to be furnished shall be lime or lemon juice, or such other anti-scorbutics (if any) of such

30 & 31
Vict. c.
124, s. 4.

quality, and composed of such materials, and packed and kept in such manner as Her Majesty by Order in Council may direct.

(2.) No lime or lemon juice shall be deemed fit and proper to be taken on board ship, for the use of the crew or passengers thereof, unless it has been obtained from a bonded warehouse for and to be shipped as stores.

(3.) Lime or lemon juice shall not be so obtained or delivered from a warehouse as aforesaid, unless—

(a.) it is shown, by a certificate under the hand of an inspector appointed by the Board of Trade, to be proper for use on board ship, the certificate to be given upon inspection of a sample, after deposit of the lime or lemon juice in the warehouse; and

(b.) it contains fifteen per cent. of proper and palatable proof spirit, to be approved by the inspector or by the officer of customs, and to be added before or immediately after the inspection thereof; and

(c.) it is packed in such bottles at such time and in such manner and is labelled in such manner as the Commissioners of Customs may direct.

(4.) If the lime or lemon juice is deposited in a bonded warehouse, and has been approved as aforesaid by the inspector, the spirit, or the amount of spirit necessary to make up fifteen per cent., may be added in the warehouse, without payment of any duty thereon; and when any spirit has been added to any lime or lemon juice, and the lime or lemon juice has been labelled as aforesaid, it shall be deposited in the warehouse for delivery as ship's stores only, upon such terms and subject to such regulations of the Commissioners of Customs as are applicable to the delivery of ships' stores from the warehouse.

(5.) The lime or lemon juice with which a ship is required by this Act to be provided shall be taken from the warehouse duly labelled as aforesaid, and the labels shall remain intact until twenty-four hours at least after the ship has left her port of departure on her foreign voyage.

Serving out of Anti-Scorbutics.

(6.) The lime or lemon juice shall be served out with sugar (the sugar to be in addition to any sugar required by the agreement with the crew).

(7.) The anti-scorbutics shall be served out to the crew so soon as they have been at sea for ten days; and during the remainder of the voyage, except during such time as they are in harbour and are there supplied with fresh provisions.

(8.) The lime or lemon juice and sugar shall be served out daily at the rate of an ounce each per day to each member of

the crew, and shall be mixed with a due proportion of water before being served out.

(9.) The other anti-scorbutics, if any, provided in pursuance of an Order in Council shall be served out at such times and in such quantities as the Order in Council directs.

SIXTH SCHEDULE.

REGULATIONS TO BE OBSERVED WITH RESPECT TO ACCOMMODATION ON BOARD SHIPS.

(1.) Every place in a ship occupied by seamen (*i*) or apprentices, and appropriated to their use, shall be such as to make the space which it is required by the Second Part of this Act to contain available for the proper accommodation of the men who are to occupy it, and shall be securely constructed, properly lighted and ventilated, properly protected from weather and sea, and as far as practicable properly shut off and protected from effluvium which may be caused by cargo or bilge water.

Accommodation.

§§ 79, 210, of this Act.
30 & 31
Vict. c.
124, s. 9.
36 & 37
Vict. c. 85,
s. 30, sch.
III.

(2.) A place so occupied and appropriated as aforesaid shall not authorize a deduction from registered tonnage under the tonnage regulations of this Act (*k*) unless there be in the ship properly constructed privies for the use of the crew, of such number and of such construction as may be approved by the surveyor of ships (*l*).

(3.) Every place so occupied and appropriated as aforesaid shall, whenever the ship is registered or re-registered, be inspected by one of the surveyors of ships under this Act (*l*), who shall, if satisfied that the same is in all respects such as is required by this Act, give to the collector of customs a certificate to that effect, and if the certificate is obtained, but not otherwise, the space shall be deducted from the register tonnage (*k*).

(4.) No deduction from tonnage as aforesaid shall be authorized unless there is permanently cut in a beam, and cut in or painted on or over the doorway or hatchway of every place so occupied and appropriated, the number of men which it is constructed to accommodate, with the words "Certified to accommodate seamen."

(5.) Upon any complaint concerning any place so occupied and appropriated as aforesaid, a surveyor of ships (*l*) may inspect the place, and if he finds that any of the provisions of this Act with respect to the same are not complied with he shall

(*i*) Defined, § 742.

(*l*) § 724.

(*k*) § 79.

report the same to the chief officer of customs (*m*) at the port where the ship is registered (*n*), and thereupon the registered tonnage shall be altered, and the deduction aforesaid in respect of space disallowed, unless and until it be certified by the surveyor (*o*), or by some other surveyor of ships (*o*), that the provisions of this Act in respect of the place are fully complied with.

Maximum Fees for Inspection.

(6.) The fee for each visit to the ship shall not exceed ten shillings.

(7.) The aggregate amount of the fees for any such inspection shall not exceed one pound, whatever be the number of separate visits.

(8.) When the accommodation is inspected at the same time with the measurement of the tonnage, no separate fee shall be charged for the inspection.

SEVENTH SCHEDULE.

CONSTITUTION OF LOCAL MARINE BOARDS.

§ 244 of
this Act.

Elections.

Constitu-
tion of
local
marine
board.
1854, ss.
110-117.

Elections.

1. A local marine board shall consist of the following members, viz.—

(a.) The mayor or provost and the stipendiary magistrates, or such of the mayors or provosts and stipendiary magistrates of the place (if more than one) as the Board of Trade appoint:

(b.) Four members appointed by the Board of Trade from among persons residing or having places of business at the port or within seven miles thereof:

(c.) Six members elected by the owners of such foreign-going ships (*m*) and home-trade passenger ships (*m*) as are registered at the port.

2. The elections shall be held on the twenty-fifth day of January one thousand eight hundred and ninety-six, and on the twenty-fifth day of January in every third succeeding year, and the appointments shall be made within one month after the elections.

3. Upon the conclusion of that month and the constitution of

(*m*) Defined, § 742.

(*o*) § 724.

(*n*) § 13.

a new board, the functions of the then existing board shall cease, and the board, consisting of the members then newly elected and appointed, shall take its place.

4. A casual vacancy happening in the intervals between the general elections and appointments, by death, resignation, disqualification, or otherwise, shall be filled up within one month after it happens; and every person elected or appointed to fill a casual vacancy shall continue a member until the next constitution of the new board.

5. The mayor or provost shall fix the place and mode of conducting elections, and also, in the case of casual vacancies, the day of election, and shall give at least ten days' notice thereof.

6. The Board of Trade may decide any question raised concerning any election.

Registry and Votes of Electors.

7. Owners of foreign-going ships (*p*) and of home-trade passenger (*p*) ships registered at the port (*q*) shall have votes at the election as follows, namely—

Every registered owner of not less than 250 tons in the whole of such shipping shall at every election have one vote for each member for every 250 tons owned by him, so that his votes for any one member do not exceed ten.

8. The qualification of electors shall be ascertained as follows :

(a.) In the case of a ship registered in the name of one person that person shall be deemed the owner :

(b.) In the case of a ship registered in distinct and several shares in the names of more persons than one the tonnage shall be apportioned among them as nearly as may be in proportion to their respective shares, and each of them shall be deemed the owner of the tonnage so apportioned to him :

(c.) In the case of a ship or shares of a ship registered jointly without severance of interest in the names of more persons than one the tonnage shall, if sufficient either alone or together with other tonnage, if any, owned by the joint owners, to give a qualification to each of them, be apportioned equally between or among the joint owners, and each of them shall be deemed the owner of the equal share so apportioned to him; but if it is not so sufficient the whole of the tonnage shall be deemed to be owned by such one of the joint owners resident or having a place of business at the port or within seven miles thereof as is first named on the register :

(d.) In making any such apportionment any portion of the

(*p*) Defined, § 742.

(*q*) § 13.

tonnage may be struck off so as to produce a divisible amount:

- (e.) The whole amount of tonnage so owned by each person, whether in ships or shares of or interest in ships, shall be added together, and if sufficient, shall constitute his qualification.

9. The chief officer of customs (*r*) in the port shall, with the assistance of the Registrar-General of Shipping and Seamen (*s*), on or before the twenty-fifth day of December in the year one thousand eight hundred and ninety-five, and in every third succeeding year, make out an alphabetical list of the persons entitled by this Act to vote at the election, containing the name and residence of each such person, and the number of votes to which he is entitled, and shall sign the list, and shall cause a sufficient number of copies thereof to be printed, and shall cause copies thereof to be fixed on or near the doors of the custom house of the port for two entire weeks next after the list has been made, and shall keep two copies of the list, and permit the same to be perused by any person, without payment, at all reasonable hours during those two weeks.

10. The mayor or provost of the port, or such of them, if more than one, as is or are for the time being so appointed as aforesaid, shall, at least twenty days before the twenty-fifth day of January one thousand eight hundred and ninety-six, and in each succeeding third year, nominate two justices of the peace (in this schedule referred to as the revisors) to revise the list.

11. The revisors shall, between the eighth and fifteenth days of January, both inclusive, in the year in which they are so nominated, revise the list at the custom house of the port, or in some convenient place near thereto, to be hired, if necessary, by the said chief officer.

12. The revisors shall give three clear days' notice of the revision by advertising the same in some local newspaper, and by affixing a notice thereof on or near to the doors of the custom house.

13. The revisors shall make the revision by inserting in the list the name of every person who claims to have his name inserted therein and gives proof, satisfactory to the revisors, of his right to have his name so inserted, and by striking out therefrom the name of every person to the insertion of whose name an objection is made by any other person named in the list who gives proof satisfactory to the revisors that the name objected to ought not to have been inserted therein.

14. The decision of the revisors with respect to every such claim or objection shall be conclusive.

(*r*) Defined, § 742.

(*s*) § 251.

15. The revisors shall, immediately after the revision, sign their names at the foot of the list so revised.

16. The list so revised shall be the register of voters at elections for three years from the twenty-fifth day of January then next ensuing inclusive to the twenty-fourth day of January inclusive in the third succeeding year.

17. The revised list, when so signed, shall be delivered to the mayor or provost as aforesaid, who shall, if necessary, cause a sufficient number of copies to be printed, and shall cause a copy thereof to be delivered to every voter applying for the same.

18. The chief officer shall, if required, for the assistance of the revisors in revising the list, produce to them the books containing the register of ships registered at the port; and the Registrar-General of Shipping and Seamen (*t*), if required, shall also produce or transmit to them such certified extracts or returns from the books in his custody as may be necessary for the same purpose.

19. The revisors shall certify the expenses properly incurred by the chief officer in making and printing the list and in the revision thereof, and the Board of Trade shall pay the same, and also all expenses properly incurred by the mayor or provost in printing the same, or in any election; and the Board of Trade may disallow any items of any of those expenses in their opinion improperly incurred.

20. Every person whose name appears on the revised list and no other person, shall be qualified to vote at the election on the twenty-fifth day of January next after the revision, and at any election for a casual vacancy held at any time between that day and the next ordinary triennial election.

Qualification of Members.

21. Every male person who is, according to the revised list, entitled to a vote, shall be qualified to be elected a member, and no other person shall be so qualified; and if any person elected ceases after election to be an owner of such quantity of tonnage as would entitle him to a vote he shall no longer continue to act or be considered a member, and thereupon another member shall be elected in his place.

Application to Corporations.

22. A corporation owning a ship shall be entitled to be registered in like manner as any individual, with the substitution of the office of the corporation for the residence of the individual. The vote of such corporation shall be given by some person whom the corporation may appoint in that behalf,

and that person shall be qualified to be elected a member, and if the corporation ceases after his election to be an owner of such quantity of tonnage as entitles the corporation to be registered as a voter, that person shall cease to be a member and another member shall be elected in his place.

EIGHTH SCHEDULE.

§ 254 of
this Act.
37 & 38
Vict. c. 38,
s. 37.

PARTICULARS TO BE REGISTERED BY MASTER OF A SHIP
CONCERNING A BIRTH AT SEA.

Date of birth.
Name (if any) and sex of the child.
Name and surname, rank, profession, or occupation of the father.
Name and surname, and maiden surname of the mother.
Nationality and last place of abode of the father and mother.

*Particulars to be registered by Master of a Ship concerning
a Death at Sea.*

Date of death.
Name and surname.
Sex.
Age.
Rank, profession, or occupation.
Nationality, and last place of abode.
Cause of death.

NINTH SCHEDULE.

PART I.

§§ 277, 360, of this Act. 1854, s. 314, Table T. 35 & 36 Vict. c. 78, s. 8.	<i>Maximum Fees to be paid for Passenger Steamer's Certificate.</i>	
		£ s. d.
	For passenger steamers not exceeding 100 tons .	4 0 0
	Exceeding 100 tons and not exceeding 300 tons .	6 0 0
	Exceeding 300 tons and not exceeding 600 tons .	8 0 0
	And for every additional 300 tons above 600 an additional	2 0 0

PART II.

Maximum Fees for Survey of Emigrant Ships.

	£	s.	d.
For an ordinary survey of the ship, and of herequipments, accommodation, stores, light, ventilation, sanitary arrangements, and medical stores	10	0	0
For a special survey	15	0	0

TENTH SCHEDULE.

REGULATIONS AS TO NUMBER OF PERSONS CARRIED ON
EMIGRANT SHIPS (u). §§ 292, 367,
of this Act.

(1.) An emigrant ship (u) shall not carry under the poop or in the round house or deck house or on the upper passenger deck (u), a greater number of steerage passengers (u) than in the proportion of one statute adult (u) to every fifteen clear superficial feet of deck allotted to their use.

(2.) An emigrant ship (u) shall not carry in the lower passenger deck (u) a greater number of steerage passengers (u) than in the proportion of one statute adult (u) to every eighteen clear superficial feet of deck allotted to their use.

(3.) Provided, that if the height between the lower passenger deck (u) and the deck immediately above it is less than seven feet, or if the apertures (exclusive of side scuttles) through which light and air are admitted together to the lower passenger deck (u) are less in size than in the proportion of three square feet to every one hundred superficial feet of that deck, the ship shall not carry a greater number of steerage passengers (u) on that deck than in the proportion of one statute adult (u) to every twenty-five clear superficial feet thereof.

(4.) An emigrant ship (u), whatever be her superficial space of decks, shall not carry a greater number of steerage passengers (u) on the whole than in the proportion of one statute adult (u) to every five superficial feet, clear for exercise, on the upper deck or poop, or on any round house or deck house which is secured and fitted on the top with a railing or guard to the satisfaction of the emigration officer at the port of clearance (x).

(5.) In the measurement (y) of the passenger deck, poop, round house or deck house, the space for the hospital, and the space occupied by that part of the personal luggage of the steerage passengers (u) which the emigration officer (y) permits to be carried there, shall be included (x).

(u) § 268.

(y) § 355.

(x) § 314.

ELEVENTH SCHEDULE.

§ 293 of
this Act.

REGULATIONS AS TO ACCOMMODATION FOR STEERAGE
PASSENGERS (z).

Construction of Passenger Decks (z).

(1.) The beams supporting the passenger decks shall form part of the permanent structure of the ship. They shall be of adequate strength in the judgment of the emigration officer (a) at the port of clearance (b), and shall be firmly secured to the ship to his satisfaction.

(2.) The passenger decks shall be at least one inch and a half thick, and shall be laid and firmly fastened on the beams continuously from side to side of the compartment in which the steerage passengers (z) are berthed.

(3.) The height between that part of any deck on which steerage passengers (z) are carried and the deck immediately above it shall not be less than six feet.

Berths.

(4.) There shall not be more than two tiers of berths on any one deck. The interval between the floor of berths and the deck immediately beneath it shall not be less than six inches. The interval between each tier of berths and between the uppermost tier and the deck above it shall not be less than two feet six inches.

(5.) The berths shall be securely constructed and of dimensions not less than six feet in length and eighteen inches in breadth for each statute adult (z), and shall be sufficient in number for the proper accommodation of all the steerage passengers (z) contained in the lists of passengers by this Act required to be delivered by the master of the ship (c).

(6.) No part of any berth shall be placed within nine inches of any water-closet erected in the between-decks.

(7.) All male steerage passengers (z) of the age of fourteen years and upwards (except those who occupy berths with their wives) shall to the satisfaction of the emigration officer (a) at the port of clearance (b) be berthed in the fore part of the ship in a compartment divided off from the space appropriated to the other steerage passengers (z) by a substantial and well-

(z) § 268.
(a) § 355.

(b) § 314.
(c) § 311.

secured bulkhead without opening into or communicating with any adjoining steerage passenger's berth, or, if the ship is fitted with enclosed berths, in separate rooms.

(8.) Not more than one steerage passenger (*d*), except in the case of husband and wife, or females, or children under the age of twelve years, shall be placed in or occupy the same berth.

(9.) Berths occupied by steerage passengers (*d*) during the voyage shall not be taken down until forty-eight hours after the arrival of the ship at the port of final discharge, unless all the steerage passengers (*d*) have voluntarily quitted the ship before the expiration of that time. The master (*e*) of the ship shall alone be liable to a fine for breach of this regulation.

Hospitals.

(10.) Sufficient space shall be set apart in every emigrant ship (*d*) for use exclusively as a hospital for the steerage passengers (*d*), properly divided off, to the satisfaction of the emigration officer (*f*) at the port of clearance (*g*).

(11.) The space set apart for a hospital shall be under the poop or in the round house, or in any deck house which shall be properly built and secured to the satisfaction of the emigration officer (*f*) at the port of clearance (*g*), or on the upper passenger deck (*d*), and not elsewhere.

(12.) The space so set apart shall contain not less than eighteen clear superficial feet for every fifty steerage passengers (*d*) whom the ship carries; and shall be fitted with bed-places, and supplied with proper beds, bedding, and utensils to the satisfaction of the emigration officer (*f*) at the port of clearance (*g*), and shall throughout the voyage be kept so fitted and supplied.

Privies.

(13.) Every emigrant ship (*d*) shall be provided to the satisfaction of the emigration officer (*f*) at the port of clearance (*g*) with at least two privies, and with two additional privies on deck for every one hundred steerage passengers (*d*) on board, and in ships carrying as many as fifty female steerage passengers with at least two water-closets under the poop or elsewhere on the upper deck to the satisfaction of the emigration officer (*f*) for the exclusive use of women and young children. The privies shall be placed in equal numbers on each side of the ship, and need not in any case exceed twelve in number.

(*d*) § 268.

(*e*) Defined, § 742.

(*f*) § 355.

(*g*) § 314.

(14.) All such privies and water-closets shall be firmly constructed and maintained in a serviceable and cleanly condition throughout the voyage, and shall not be taken down until the expiration of forty-eight hours after the arrival of the ship at the final port of discharge, unless all the steerage passengers (i) quit the ship before the expiration of that time.

(15.) The master (k) of the ship shall alone be liable to a fine for breach of the regulations as to privies.

Light and Ventilation.

(16.) Every emigrant ship (i) shall be supplied with such provision for affording light and air to the passenger decks (i) as the circumstances of the case may, in the judgment of the emigration officer (l) at the port of clearance (i), require, and if there are as many as one hundred steerage passengers (i) on board shall be supplied with an adequate and proper ventilating apparatus, to be approved by such emigration officer (l) and fitted to his satisfaction.

(17.) The steerage passengers (i) shall have the free and unimpeded use of the whole of each hatchway situated over the space appropriated to them, and over each such hatchway there shall be erected such a boobyhatch or other substantial covering as will, in the opinion of the emigration officer (l), afford the greatest amount of light and air, and of protection from wet, which the case will admit.

TWELFTH SCHEDULE.

WATER AND PROVISIONS.

§ 293 of
this Act.

Water and provisions shall be issued to the steerage passengers (i) according to the following dietary scales, that is to say :—

Water.

Three quarts daily to each statute adult (i), exclusive of the quantity necessary for cooking any article issued under this schedule in a cooked state.

(i) § 268.

(k) Defined, § 742.

(l) § 814.

Provisions.

Weekly, per statute adult (l) :—

	SCALE A. For voyages not exceeding 84 days for sailing ships or 60 days for steamships or ships having steam power in aid of sails.		SCALE B. For voyages exceeding 84 days for sailing vessels or 60 days for steamships or ships having steam power in aid of sails.	
	lbs.	ozs.	lbs.	ozs.
Bread or biscuit, not inferior to navy biscuit	3	8	3	8
Wheaten flour	1	0	2	0
Oatmeal	1	8	1	0
Rice	1	8	0	8
Peas	1	8	1	8
Beef	1	4	1	4
Pork	1	0	1	0
Butter	—	—	0	4
Potatoes	2	0	2	0
Sugar	1	0	1	0
Tea	0	2	0	2
Salt	0	2	0	2
Mustard	0	$\frac{1}{2}$	0	$\frac{1}{2}$
Pepper (white or black), ground	0	$\frac{1}{2}$	0	$\frac{1}{2}$
Vinegar	One gill.		One gill.	
Preserved meat			1	0
Suet			0	6
Raisins			0	8
Lime juice			0	6
			(See below)	

Substitutions.

Substitutions at the following rates may, at the option of the master (m) of any emigrant ship (l), be made in the above dietary scales, as follows; that is to say,

1½ lb. of soft bread baked on board	} for {	1 lb. of flour, or 1 lb. of biscuit, or 1½ lb. of oatmeal, or 1 lb. of rice, or 1 lb. of peas.
1 lb. of preserved meat		1 lb. of salt pork or beef.
1 lb. of flour or of bread or biscuit, or ½ lb. of beef or of pork	} for {	1½ lb. of oatmeal, or 1 lb. of rice, or 1 lb. of peas.
1 lb. of rice		1½ lb. of oatmeal, or vice versa.

(l) § 268.

(m) Defined, § 742.

$\frac{1}{2}$ lb. of preserved potatoes	for	1 lb. of potatoes.
10 oz. of currants	for	8 oz. of raisins.
$3\frac{1}{2}$ oz. of cocoa or of coffee,	} for {	2 oz. of tea.
roasted and ground		
$\frac{1}{2}$ lb. of treacle	for	$\frac{1}{2}$ lb. of sugar.
1 gill of mixed pickles	for	1 gill of vinegar.

Provided that the substituted articles are set forth in the contract tickets (n) of the steerage passengers (o).

Regulations as to Lime Juice.

Lime
juice.

When the ship is not in the tropics, it shall not be obligatory to issue lime juice, but lime juice may be issued at the discretion of the medical practitioner on board, or if there is no such medical practitioner, at the discretion of the master.

Regulations as to Messes and Issue of Provisions.

(1.) Steerage passengers (o) may be divided into messes, but a mess shall not consist of more than ten statute adults (o).

(2.) Members of the same family, whereof one at least is a male adult, shall be allowed to form a separate mess.

(3.) Water and provisions according to the above scales shall be issued daily before two o'clock in the afternoon to the head person for the time being of each mess, on behalf and for the use of the members thereof.

(4.) The first of the issues shall be made before two o'clock in the afternoon of the day of embarkation to such of the steerage passengers (o) as are then on board.

(5.) Such provisions as require to be cooked shall be issued in a properly cooked state.

THIRTEENTH SCHEDULE.

§ 301 of
this Act.

CONDITIONS FOR CARRIAGE OF HORSES AND CATTLE IN EMIGRANT SHIPS (o).

(1.) The animals shall not be carried below any deck on which steerage passengers (o) are berthed, nor in any compartment in which steerage passengers (o) are berthed, nor in any adjoining compartment, except in a ship built of iron, and of which the compartments are divided off by water-tight bulk-heads extending to the upper deck.

(2.) Clear space on the spar or weather deck shall be left for the use and exercise of the steerage passengers (o), at the rate of at least ten superficial feet for each statute adult.

(n) § 320.

(o) § 268.

(3.) No greater number of steerage passengers (*p*) shall be carried than in the proportion of fifteen to every one hundred tons of the ship's registered tonnage.

(4.) In emigrant ships (*p*) of less than five hundred tons registered tonnage not more than two head of large cattle shall be carried, nor in emigrant ships of larger tonnage more than one additional head of large cattle for every additional two hundred tons of the ship's registered tonnage, nor more in all in any emigrant ship than ten head of large cattle. The expression "large cattle" includes both sexes of horned cattle, deer, horses, and asses; and four sheep of either sex, or four female goats, shall be equivalent to, and may, subject to the same conditions, be carried in lieu of one head of large cattle.

(5.) Proper arrangements shall be made, to the satisfaction of the emigration officer (*q*) at the port of clearance (*r*), for the housing, maintenance, and cleanliness of the animals, and for the stowage of their fodder.

(6.) Not more than six dogs, and no pigs or male goats, shall be conveyed as cargo in any emigrant ship.

FOURTEENTH SCHEDULE.

FORMS UNDER PART III. (*s*) (PASSENGER AND EMIGRANT SHIPS).

FORM I.

§ 360 of
this Act.

FORM OF MASTER'S BOND (*t*).

KNOW all men by these presents, that we, (*)
are held and firmly bound unto our Sovereign
by the Grace of God, of the United Kingdom of Great
Britain and Ireland defender of the faith, in the Christian
sum of (b) *two thousand* pounds of good and lawful money and sur-
of Great Britain, to be paid to our said Sovereign Her full, with
[His] heirs and successors; to which payment well and occupa-
truly to be made we bind ourselves and every of us, jointly tions and
and severally, and our heirs, executors, and administrators, addressees
and every of them, firmly by these presents. Sealed with of each of
our seals. Dated this day of one thousand obligors.
eight hundred and (b) The

Whereas by Part III. of the Merchant Shipping Act, 1894,
it is amongst other things enacted, that, before any emigrant be *five*
ship clears outwards or proceeds to sea, the master, together *thousand*
with the owner or charterer, or in the event of the owner or pounds if
neither the
owner nor
charterer

(p) § 268.

(q) § 355.

(r) § 314.

(s) Forms of cabin and steerage

tickets will be found in Appendix
XIV., *post*.

(t) § 309.

of the ship charterer being absent, or being the master, one other good and sufficient person, approved by the chief officer of customs at the port of clearance, shall enter into a joint and several bond to the Crown, in the sum of two thousand pounds:

Now the condition of this obligation is such, that if the ship whereof the above bounden is master, is in all respects seaworthy, (°) [and if the said ship shall call at the port of and there shall be shipped on board at such port pure water for the use of the steerage passengers, sufficient in quantity to afford an allowance of three quarts daily to each statute adult for the period of days on the voyage from such port to the final port or place of discharge of such ship,] and if (notwithstanding any fine by the said Act imposed, and whether the same may have been sued for and recovered or not) all and every the requirements of the said Merchant Shipping Act, 1894, (except such of them as relate exclusively to passage brokers and emigrant runners) and of the Board of Trade acting under the said Act, and of any Order of Her Majesty in Council relating to "emigrant ships" and now in force, shall in all respects be well and truly performed (°) [and if the master for the time being of the said ship shall submit himself, in like manner as a British subject being the master of a British emigrant ship, to the jurisdiction of the tribunals in Majesty's possessions abroad, empowered by the said Act to adjudicate on offences committed against the said Act,] and if moreover all fines, and forfeitures which the master of such ship may be adjudged to pay for or in respect of the breach or nonfulfilment of any of such requirements as aforesaid shall be well and truly paid, and if all expenses incurred by a Secretary of State or governor of a British possession or British consular officer under the said Act shall also be well and truly paid, then this obligation to be void, otherwise to remain in full force and virtue.

Signed, sealed, and delivered by the above bounden and in the presence of (°)

(°) Certificate to be signed by the chief officer of Customs and forwarded with the bond to the colony, according to s. 319 of the Act.

(°) [I hereby certify, that the above bond was duly signed, sealed, and delivered according to the law of the United Kingdom by the said master of the said ship and by the said (other obligor).]

(Signature) _____

(Date) _____

18

{ Chief Officer of Customs for the port of _____

FORM II.

FORM OF PASSENGERS' LIST (t).

Ship's name.	Master's name.	Tons per register.	Aggregate number of superficial feet in several compartments set apart for steerage passengers (u).	Total number of statute adults (u), exclusive of master, crew, and cabin passengers, which the ship can legally carry.	Where bound.

I hereby certify, that the provisions actually laden on board this ship are sufficient, according to the requirements of Part III. of the Merchant Shipping Act, 1894, for statute adults (u) for a voyage of _____ days.

Date

18 .

(Signature) _____ Master.

(t) § 311.

(u) § 268.

NAMES AND DESCRIPTIONS OF PASSENGERS.

[illegible]

SUMMARY OF STEERAGE AND CABIN PASSENGERS.

Nationalities.	Number of souls.							
	Adults of 12 years of age and upwards.				Children between 1 and 12 years.		Infants.	
	Married.		Single.					
	M.	F.	M.	F.	M.	F.	M.	F.
English . . .								
Scotch . . .								
Irish . . .								
Foreigners . .								
TOTAL . .								

No.

Total number of adults

Children between 1 and 12; equal to statute adults

Total number of statute adults

We hereby certify, that the above is a correct list of the names and descriptions of all the passengers who embarked at the port of

(Signed) _____ Master.

(Countersigned) _____ Emigration Officer.

Date 18 _____ Officer of Customs at _____

N.B.—Lines should be ruled in the same form for any additions to the list after the ship first clear out; and similar certificates be subjoined to such additions, according to the requirements of the Act.

FORM III.

FORM OF GOVERNOR'S OR CONSULAR OFFICER'S CERTIFICATE OF EXPENDITURE IN THE CASE OF PASSENGERS WRECKED OR FORWARDED (u).

I hereby certify, that, acting under and in conformity with the provisions of the Merchant Shipping Act, 1894, I have defrayed the expenses incurred in rescuing, maintaining, supplying with necessary bedding, provisions, and stores (*), and in forwarding to their destination steerage passengers (x) [and cabin passengers (x) (b)], who were proceeding from _____ to _____ in the ship _____, which was wrecked at sea, &c. (c).

And I further certify, for the purposes of Part III. of the said Act, that the total amount of such expenses is

(u) § 334, s. 2.

(x) Defined, § 268.

(*) If more passengers were rescued than forwarded, or if bedding, &c., was not supplied, alter the certificate to suit the facts of the case.
(b) Omit words in brackets when necessary.
(c) State generally

Governor of, &c., (or as
the case may be,) *British Consular*
Officer at

FORM OF PASSAGE BROKER'S BOND (y).

(z) Defined, § 263.

under or by virtue of the said Act, then and in such case this obligation to be void, otherwise to remain in full force.

Signed, sealed, and delivered by the above-bounden A.B., C.D., and E.F., in the presence of ^(b)

^(c) Insert the names and addresses in full of the witnesses.

N.B.—This bond is to be executed in duplicate, in the presence of and to be attested by an emigration officer ^(b) or his assistant, or an officer of Customs, or a magistrate, or a notary public. One part is to be deposited with the Board of Trade and the other part with the emigration officer at the port nearest to the place of business of the broker.

Each member of a firm or partnership who acts as a passage broker must give a separate bond with two sureties.

The bond is exempt from stamp duty, but must be renewed annually with the licence.

FORM V.

FORM OF PASSAGE BROKER'S LICENCE ^(c).

A.B. ^(*) of _____ in the _____ having shown to the satisfaction of the council of _____ [^(*) The names ^(d) and surnames of all the members must be given.] ^(*) or me (or us) the undersigned], that he hath given bond to the Crown, as required by the Merchant Shipping Act, 1894, and also given fourteen days' previous notice to the Board of Trade of his intention to apply for a licence to carry on the business of a passage broker in respect of steerage passages ^(e) from the British Islands to any port out of Europe, and not within the Mediterranean Sea, the said council [^(*) or I (or we), the undersigned], having had no sufficient cause shown, and seeing no valid reason why the said A.B. should not receive such licence, do hereby license and authorize the said A.B. to carry on the business of a passage broker as aforesaid until the end of the present year, and thirty-one days afterwards, unless this licence shall be sooner determined by forfeiture for misconduct on the part of the said A.B. as provided in the Merchant Shipping Act, 1894.

Given under the common seal of the said council [^(*) or my hand and seal (or our respective hands and seals)], this _____ day of _____ 18 _____ at _____

(L.S.) [signature authenticating seal.]

[or Signature] _____ (L.S.)

{ Sheriff, or sheriff substitute, or Justices of the Peace, as the case may be.

NOTE.—Each member of a firm or partnership who acts as a passage broker must have a separate licence.

(b) § 355.

(c) § 353.

(d) *Semble*, "Christian."

(e) Defined, § 268.

FORM VI.

FORM OF NOTICE TO BE GIVEN TO THE BOARD OF TRADE BY
LICENSING AUTHORITY GRANTING A LICENCE (f).

Gentlemen,

THIS is to give you notice, that the council of [or
we (or I), the undersigned], did on the day of18 license A.B. of (*) to carry on
(*) Insert the names and surnames in full, with the address and occupation of the party.
the business of a passage broker under the provisions of the Merchant Shipping Act, 1894.

Signatures _____

Clerk of the said
council or sheriff,
or Justices of the
Peace, or as the
case may be.

Place

Date

To the Board of Trade, London.

FORM VII.

FORM OF NOTICE TO BE GIVEN TO THE BOARD OF TRADE BY AN
APPLICANT FOR A PASSAGE BROKER'S LICENCE (f).

(*) The names and surnames in full, with the address and trade or occupation of the party applying for a licence, must be here correctly inserted.

Gentlemen,

I, A.B. (*) of in do hereby give you
notice that it is my intention to apply, after the expiration of
fourteen clear days from the date of putting this notice into
the post to the council for the city or borough or district of
or if in Scotland to the sheriff or sheriff substitute
of or if in Ireland to the justices assembled in petty
sessions to be held, (*) as the case may be, for a
licence to carry on the business of a passage broker under the
Merchant Shipping Act, 1894.

Signature _____

Date

To the Board of Trade, London.

FORM VIII.

FORM OF NOTICE OF FORFEITURE OF A PASSAGE BROKER'S LICENCE
TO BE GIVEN BY THE COURT BY WHICH IT IS FORFEITED TO
THE BOARD OF TRADE (g).

Gentlemen,

This is to give you notice, that the licence granted on the
day of 18 to A.B. (*) of in

(f) § 343, s. 1.

(g) § 344, s. 3.

(*) The place or district in which the party giving the notice has his place of business.

(*) The names and

to act as a passage broker, was on the day
of now last past duly declared by me (or us) the surnames
undersigned, to be forfeited.^(b) in full,
Signatures _____ with the
_____ address
_____ and trade
Place and date _____ or occupa-
18 tion of the
To the Board of Trade, London. party, to
_____ be here
_____ inserted.
_____ ^(b) Here
_____ state
_____ generally
_____ the reason

FORM IX.

FORM OF APPOINTMENT OF PASSAGE BROKER'S AGENT (h).

I, A.B. of, &c. (or as the case may be), one of the partners of for-
and on behalf of the firm of, &c. (name all the partners and the feiture.
style of the firm), carrying on the business of at
, do hereby nominate and appoint you C.D. of, &c., DIREC-
to act as my agent and on my behalf in the sale or letting of TIONS.
steage passages and otherwise in the business of a passage
broker, according to the Merchant Shipping Act, 1894.

Signature in full _____

Place and date _____

Counter signature _____

{ Emigration officer at the
port of

Insert in
the proper
places the
names and
surnames
in full,
with the
correct
addresses
and de-
signations
of the con-
stituent
and agent
respec-
tively.
^(*) The
names and
surnames
in full,
with the
address of
the party
applying
for the
licence,
must be
here cor-
rectly
inserted.
^(b) Dis-
trict, town,
or place in
which the
emigrant
runner is
to carry
on his
business.

FORM X.

FORM OF EMIGRANT RUNNER'S ANNUAL LICENCE (i).

A.B. ^(*) of _____ in the _____ having made appli-
cation in writing to the council of [or me, the sheriff, and agent
or us, the undersigned justices of the peace assembled in petty respec-
sessions, for the _____ of _____] to grant to him
a licence to enable him to be registered as an emigrant runner ^(*) The
in and for ^(b) _____, and the said [A.B.] having also names and
been recommended as a proper person to receive such licence surnames
by an emigration officer, or by the chief constable [or other head in full,
officer of police, as the case may be] of [the district, with the
town, or place in which the said A.B. is to carry on his business]: address of
the said council [or I, the sheriff, or we, the under-mentioned the party
justices] having no sufficient cause shown, and seeing no valid applying
reason why the said A.B. should not receive such licence, do for the
hereby grant to him this licence for the purposes aforesaid, licence,
subject nevertheless to be revoked for misconduct on the part of must be
the said A.B., as provided in the Merchant Shipping Act, 1894. here cor-
rectly
inserted.
^(b) Dis-
trict, town,
or place in
which the
emigrant
runner is
to carry
on his
business.

(Signatures, and authenticating seal.)

(h) § 345.

(i) § 348.

FIFTEENTH SCHEDULE.

§ 375 of
this Act.NUMBER AND DIMENSIONS OF BOATS FOR FISHING BOATS
ENTERED IN THE FISHING-BOAT REGISTER.

Registered tonnage.		COLUMN 1. To be carried by sailing boats and steam boats.												COLUMN 2. To be carried by sailing boats and by steam boats when they do not carry the boats in col. 3.				COLUMN 3. To be carried by steam boats which do not carry the boat in col. 2.				COLUMN 4. Total number of boats.	
Sailing boats.	Steam boats.	Boats.				Boats.				Launches.				Boats.				Sailing boats.	Steam boats.				
		Number.	Length.	Breadth.	Depth.	Number.	Length.	Breadth.	Depth.	Number.	Length.	Breadth.	Depth.	Number.	Length.	Breadth.	Depth.						
Tons. 400 and upwards.	Tons. 240 and upwards.	1	16	5	6	2	3	1	22	5	6	2	5	1	22	5	6	2	3	3 or 4			
200 to 400	120 to 240.	1	14	5	0	2	2	—	—	—	—	—	—	1	20	6	0	3	0	2 or 3			
100 to 200	60 to 120	1	14	5	0	2	2	—	—	—	—	—	—	1	16	5	6	2	9	2 or 3			
Under 100	Under 60	1	14	5	0	2	2	—	—	—	—	—	—	—	—	—	—	—	—	as the case may be.			

Note.—In sailing boats carrying the number of boats above specified, and steam boats carrying the larger of the two numbers above specified, the boats are to be considered sufficient, if their aggregate cubic contents are equal to the aggregate cubic contents of the boats specified.

In steam boats carrying the smaller of the two numbers, specified in column 4, one of the boats must be a launch of the capacity specified in column 2.

In sailing boats of 200 tons burden and under, not carrying passengers, a dingy may be substituted for the boat in column 1.

In sailing boats of 150 tons burden and under, not carrying passengers, a substantial boat of capacity sufficient to carry the crew may be substituted for those above specified.

In all steam boats, two paddlebox boats may be substituted for the boats in column 3.

SIXTEENTH SCHEDULE.

§ 420. MAXIMUM FEES FOR INSPECTION OF LIGHTS AND FOG SIGNALS.

£ s. d.

For each visit made to a ship on the application
of the owner and for each visit made where the
lights or fittings are found defective . . . 0 10 0

Provided that the aggregate amount of fees for any such inspection shall not exceed one pound whatever may be the number of separate visits.

SEVENTEENTH SCHEDULE.

LIFE-SAVING APPLIANCES (*k*).

§ 429 of
this Act.

Constitution of the Committee.

(1.) Three shipowners selected by the Council of the Chamber of Shipping of the United Kingdom.

(2.) One shipowner selected by the Shipowners' Associations of Glasgow and one shipowner selected by the Liverpool Steamship Owners Association and the Liverpool Shipowners Association conjointly.

(3.) Two shipbuilders selected by the Council of the Institution of Naval Architects.

(4.) Three persons practically acquainted with the navigation of vessels selected by the shipmasters societies recognized by the Board of Trade for this purpose.

(5.) Three persons being or having been able-bodied seamen selected by the seamen's societies recognized by the Board of Trade for this purpose.

(6.) Two persons selected conjointly by the Committee of Lloyd's, the Committee of Lloyd's Register Society, and the Committee of the Institute of London Underwriters.

EIGHTEENTH SCHEDULE.

PRECAUTIONS AS TO GRAIN CARGO.

§ 453 of
this Act.

(1.) There shall not be carried between the decks, or, if the ship has more than two decks, between the main and upper decks, any grain in bulk, except such as may be necessary for feeding the cargo in the hold, and is carried in properly constructed feeders.

(2.) Where grain (except such as may be carried in properly constructed feeders) is carried in bulk in any hold or compartment, and proper provision for filling up the same by feeders is not made, not less than one-fourth of the grain carried in the hold or compartment (as the case may be) shall be in bags supported on suitable platforms laid upon the grain in bulk: Provided that this regulation with respect to bags shall not apply—

(*a.*) To oats, or cotton seed; nor

(*k*) See Rules in Appendix, *post*.

(b.) To a ship which is a sailing ship of less than four hundred tons registered tonnage, and is not engaged in the Atlantic trade; nor

(c.) To a ship laden at a port in the Mediterranean or Black Sea, if the ship is divided into compartments which are formed by substantial transverse partitions, and are fitted with longitudinal bulkheads or such shifting boards as herein-after mentioned, and if the ship does not carry more than one-fourth of the grain cargo, and not more than one thousand five hundred quarters in any one compartment, bin, or division, and provided that each division of the lower hold is fitted with properly constructed feeders from the between decks; nor

(d.) To a ship in which the grain cargo does not exceed one-half of the whole cargo of the ship, and the rest of the cargo consists of cotton, wool, flax, barrels or sacks of flour, or other suitable cargo so stowed as to prevent the grain in any compartment, bin, or division from shifting.

(3.) Where grain is carried in the hold or between the decks, whether in bags or bulk, the hold or the space between the decks shall be divided by a longitudinal bulkhead or by sufficient shifting boards which extend from deck to deck or from the deck to the keelson and are properly secured, and if the grain is in bulk are fitted grain-tight with proper fillings between the beams.

(4.) In loading the grain shall be properly stowed, trimmed, and secured.

NINETEENTH SCHEDULE.

PART I.

§ 558 of
this Act.

STATEMENTS IN THE CASE OF SALVAGE BY HER MAJESTY'S SHIPS.

(1.) Particulars to be stated both by the salvor and by the master or other person in charge of the vessel, cargo, or property saved:—

(a.) the place, condition, and circumstances in which the vessel, cargo, or property was at the time when the services were rendered for which salvage is claimed:

(b.) the nature and duration of the services rendered.

(2.) Additional particulars to be stated by the salvor:—

(a.) the proportion of the value of the vessel, cargo, and property, and of the freight which he claims for

salvage, or the values at which he estimates the vessel, freight, cargo, and property respectively, and the several amounts that he claims for salvage in respect of the same:

- (b.) any other circumstances which he thinks relevant to the said claim.
- (3.) Additional particulars to be stated by the said master or other person in charge of the said vessel, cargo, or property:—

- (a.) a copy of the certificate of registry (*l*) of the said vessel, and of the indorsements thereon, stating any change which (to his knowledge or belief) has occurred in the particulars contained in the certificate; and stating also to the best of his knowledge and belief, the state of the title to the vessel for the time being, and of the incumbrances and certificates of mortgage or sale, if any, affecting the same, and the names and places of business of the owners and incumbrancers:
- (b.) the name and place of business or residence of the freighter (if any) of the said vessel, and the freight to be paid for the voyage on which she then is:
- (c.) a general account of the quantity and nature of the cargo at the time the salvage services were rendered:
- (d.) the name and place of business or residence of the owner of the cargo and of the consignee thereof:
- (e.) the values at which the master or person making the statement estimates the vessel, cargo, and property, and the freight respectively, or if he thinks fit, in lieu of the estimated value of the cargo, a copy of the vessel's manifest:
- (f.) the amounts which the master thinks should be paid as salvage for the services rendered:
- (g.) an accurate list of the property saved in cases where the vessel is not saved:
- (h.) an account of the proceeds of the sale of the vessel cargo, or property, in cases where the same or any of them are sold at the port where the statement is made:
- (i.) the number, capacities, and condition of the crew of the vessel at the time when the services were rendered; and
- (k.) any other circumstances he thinks relevant to the matters in question.

PART II.

§ 558 of
this Act.

SALVAGE BOND.

[N.B.—Any of the Particulars not known, or not required, by reason of the Claim being only against the Cargo, &c., may be omitted.]

Whereas certain salvage services are alleged to have been rendered by the vessel [*insert names of vessel and of commander*], commander, to the merchant vessel [*insert names of vessel and master*], master, belonging to [*name and place of business or residence of owner of vessel*], freighted by [*the name of the freighter*], and to the cargo therein, consisting of [*state very shortly the descriptions and quantities of the goods, and the names and addresses of their owners and consignees*]:

And whereas the said vessel and cargo have been brought into the port of [*insert name and situation of port*], and a statement of the salvage claim has been sent to [*insert the name of the consular officer or judge of the colonial court of admiralty or vice-admiralty court and of the office he fills*], and he has fixed the amount to be inserted in this bond at the sum of [*state the sum*]:

Now I, the said [*master's name*], do hereby, in pursuance of the Merchant Shipping Act, 1894, bind the several owners for the time being of the said vessel and of the cargo therein and of the freight payable in respect of that cargo and their respective heirs, executors, and administrators, to pay among them such sum not exceeding the said sum of [*state the sum fixed*], in such proportions and to such persons as [*if the parties agree on any other court, substitute the name of it here*], the High Court in England shall adjudge to be payable as salvage for the services so alleged to have been rendered as aforesaid.

In witness whereof I have hereunto set my hand and seal, this [*insert the date*] day of

Signed sealed, and delivered, by the said [*master's name*].

(L.S.)

In the presence of [*name of consular officer or judge of the Colonial Court of Admiralty or Vice-Admiralty Court, and of the office he fills*].

TWENTIETH SCHEDULE.

MAXIMUM FEES AND REMUNERATION OF RECEIVER.

§ 567 of
this Act.

£ s. d.

For every examination on oath instituted by a receiver with respect to any vessel which may be or may have been in distress, a fee not exceeding . 1 0 0

But so that in no case shall a larger fee than two pounds be charged for examinations taken in respect of the same vessel and the same occurrence, whatever may be the number of the deponents.

For every report required to be sent by the receiver to the secretary of Lloyd's in London, the sum of 0 10 0

For wreck taken by the receiver into his custody, a per-centage of five per cent. upon the value thereof.

But so that in no case shall the whole amount of per-centage so payable exceed twenty pounds.

In cases where any services are rendered by a receiver, in respect of any vessel in distress, not being wreck, or in respect of the cargo or other articles belonging thereto, the following fees instead of a per-centage; that is to say:—

If that vessel with her cargo equals or exceeds in value six hundred pounds, the sum of two pounds for the first, and the sum of one pound for every subsequent day during which the receiver is employed on that service, but if that vessel with her cargo is less in value than six hundred pounds, one moiety of the above-mentioned sum.

TWENTY-FIRST

§ 582.

MAXIMUM RATES of PILOTAGE to be DEMANDED and RECEIVED by quali-

[N.B.—The rates which can be actually taken may, by virtue of an order

OUTWARDS.

From	To	7 Feet and under.	8 Feet.	9 Feet.	10 Feet.	11 Feet.	12 Feet.
		£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
The Sea, Orfordness, the Downs, Hoo- ley Bay, and <i>vice</i> <i>versâ</i> .	Nore Warps	3 13 6	4 2 9	4 12 0	5 1 3	5 5 9	6 5 0
	Gravesend, Chatham, Stand- gate Creek, or Blackstakes }	4 12 0	5 7 9	6 3 3	6 18 0	7 11 9	8 5 6
	Long Reach	4 16 6	5 12 3	6 8 0	7 2 6	7 18 3	8 14 9
	Woolwich or Blackwall	5 5 9	6 1 6	6 17 0	7 11 9	8 10 3	9 4 0
	Moorings or London Docks	5 16 0	6 9 9	7 3 6	7 17 3	8 19 6	9 13 3
The Nore or Warps, and <i>vice versâ</i> .	Gravesend, Standgate Creek, or Blackstakes }	1 18 9	2 3 3	2 7 0	2 10 6	2 19 9	3 6 3
	Long Reach or Chatham	2 6 0	2 10 6	2 15 3	2 19 9	3 9 0	3 18 3
	Woolwich or Blackwall	2 15 3	3 1 9	3 8 0	3 13 6	4 2 9	4 10 3
	Moorings or London Docks	3 4 6	3 10 9	3 17 3	4 2 9	4 16 6	5 5 9
	Long Reach	0 9 3	0 14 9	1 0 3	1 5 3	1 10 0	1 14 6
Gravesend Reach, and <i>vice versâ</i> .	Woolwich or Blackwall	1 3 0	1 7 6	1 12 3	1 16 9	2 4 3	2 13 6
	Moorings or London Docks	1 7 6	1 14 0	2 0 6	2 6 0	2 15 3	3 4 6
	Sheerness, Standgate Creek, or Blackstakes }	2 15 3	2 19 0	3 1 9	3 4 6	3 13 6	4 2 9
	Chatham	3 4 6	3 8 0	3 10 9	3 13 6	4 2 9	4 12 0
	Woolwich or Blackwall	0 18 6	1 2 0	1 4 9	1 7 6	1 16 9	2 6 0
Long Reach and <i>vice versâ</i> .	Moorings or London Docks	1 7 6	1 11 3	1 14 0	1 16 9	2 6 0	2 15 3
	Sheerness, Standgate Creek, or Blackstakes }	3 4 6	3 8 0	3 10 9	3 13 6	4 2 9	4 12 0
	Chatham	3 13 6	3 17 3	4 0 0	4 2 9	4 12 0	5 1 3
	Moorings or London Docks	0 18 6	1 2 0	1 4 9	1 7 6	1 10 0	1 12 3
	Sheerness, Standgate Creek, or Blackstakes }	3 13 6	3 17 3	4 0 0	4 2 9	4 12 0	5 1 3
Woolwich or Black- wall, and <i>vice</i> <i>versâ</i> .	Chatham	4 2 9	4 6 6	4 9 3	4 12 0	5 1 3	5 10 6

INWARDS.

From	To	Under 7 Feet	From 7 Feet to 10 Feet.	11 Feet.	12 Feet.	13 Feet.
		£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
The Downs	Nore, Sheerness, Standgate Creek, Gravesend }	5 5 0	7 17 6	8 13 3	9 9 0	10 4 9
	Longreach	5 16 0	8 8 6	9 9 0	10 4 10	11 3 0
	Blackwall or London	6 12 3	8 19 6	10 4 9	11 0 6	12 1 6
Standgate Creek	Gravesend	3 6 2	3 17 0	4 8 2	4 19 0	5 10 3

NOTE 1.—Foreign ships are to pay one fourth more than British ships, except when privileged to enter which cases such ships are to pay the same rates of pilotage only as are payable by British ships.

NOTE 2.—For half a foot exceeding the above draughts of water, the medium price between the two

(a) §§ 582 (6), 626.

SCHEDULE (a).

fied **PILOTS** for piloting **SHIPS** within the under-mentioned Limits.
of the Trinity House, be less than those mentioned in this Schedule.]

OUTWARDS.

13 Feet.	14 Feet.	15 Feet.	16 Feet.	17 Feet.	18 Feet.	19 Feet.	20 Feet.	21 Feet.	22 Feet.	22 Feet and upwards.
£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
6 13 6	7 7 3	7 16 6	8 14 9	9 8 6	10 17 0	11 10 0	12 17 6	14 5 3	16 11 3	18 8 0
8 19 6	9 13 3	10 7 0	11 0 9	11 14 6	14 1 6	16 13 0	19 6 6	21 5 0	23 3 9	25 2 3
9 8 6	10 0 0	10 16 3	11 10 0	13 3 6	15 9 0	18 11 9	21 5 0	23 0 0	24 16 9	26 13 6
10 2 6	11 0 9	11 14 6	12 8 6	14 3 6	16 5 9	19 11 0	22 1 6	24 16 9	27 12 0	—
10 11 6	11 10 0	12 8 6	13 2 3	14 14 6	17 0 6	20 10 3	23 4 6	—	—	—
3 11 9	3 15 6	4 2 9	4 10 3	5 1 3	5 16 0	6 8 9	7 14 6	8 14 0	9 13 3	10 12 6
4 2 9	4 7 0	4 13 9	5 5 0	5 16 0	6 15 3	8 5 6	9 13 3	10 12 6	11 11 9	12 15 3
4 19 0	5 8 6	5 16 0	6 4 3	7 2 6	8 3 9	9 4 0	11 11 9	12 11 3	13 16 0	—
5 15 0	6 4 3	6 13 6	7 2 6	8 1 0	9 4 0	11 0 9	12 17 6	13 16 0	—	—
1 9 0	2 3 9	2 8 3	2 13 0	2 17 6	3 2 0	3 6 9	3 11 3	4 12 0	5 10 6	—
3 2 6	3 11 9	3 16 3	4 5 6	4 13 9	5 1 2	6 4 3	7 11 9	8 19 6	9 13 3	—
3 13 6	4 2 9	4 12 0	5 1 3	5 10 6	5 19 6	7 7 3	8 14 9	—	—	—
4 12 0	5 1 3	5 10 6	5 19 6	6 8 9	6 18 0	7 7 3	7 16 5	—	—	—
5 1 3	5 10 6	5 19 6	6 8 9	6 18 0	7 7 3	7 16 5	8 5 6	—	—	—
2 15 3	3 4 6	3 13 6	4 2 9	4 12 0	5 3 6	5 16 0	6 8 9	8 5 6	9 4 0	—
3 4 6	3 13 6	4 2 9	4 12 0	5 3 6	5 16 0	6 8 9	7 7 3	9 4 0	—	—
5 1 3	5 10 6	5 19 6	6 8 9	6 18 0	7 7 3	7 17 6	8 5 6	8 14 9	—	—
5 10 6	5 19 6	6 8 9	6 18 0	7 7 3	7 16 6	8 5 6	8 14 9	9 4 0	—	—
1 16 9	2 1 6	2 6 0	2 10 6	2 15 3	2 19 9	3 4 6	3 9 0	—	—	—
5 10 6	5 19 6	6 8 9	6 18 0	7 7 3	7 16 6	8 5 6	8 14 9	—	—	—
5 19 6	6 8 9	6 18 0	7 7 3	7 17 6	8 5 6	8 14 9	9 4 0	—	—	—

INWARDS.

14 Feet.	15 Feet.	16 Feet.	17 Feet.	18 Feet.	19 Feet.	20 Feet.	21 Feet.	22 Feet.	23 Feet and upwards.
£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
11 0 6	11 16 3	12 12 0	13 7 9	16 1 3	19 0 0	22 1 0	24 5 0	26 9 2	28 13 3
11 18 10	12 18 3	13 14 0	15 0 9	17 14 4	21 4 2	24 5 1	26 9 2	28 13 3	30 17 4
12 17 3	14 0 4	14 16 0	16 13 9	19 7 5	23 8 3	26 9 2	28 13 3	—	—
6 1 3	6 12 3	7 3 3	7 14 4	8 5 4	8 16 4	9 7 4	—	—	—

the ports of the United Kingdom upon paying the same duties of tonnage as are paid by British ships, in limits.—For intermediate distances a proportionate rate.

S.M.S.A.

2 q

INWARDS.

For putting a pilot on board, and for pilotage of ships to the anchorage to the Downs (*).		60 Tons, and under 150.	150 Tons, and under 250.	250 Tons, and under 400.	400 Tons, and under 600.	600 Tons, and upwards.
		£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
From off Dungeness to off Folkestone; the Church bearing N.N.W. by Compass		2 0 0	3 0 0	3 10 0	4 0 0	5 5 0
From off Folkestone to the South Foreland, the Lights in one		1 10 0	2 0 0	2 10 0	3 0 0	4 4 0
From off the South Foreland to the Downs		1 5 0	1 5 0	1 10 0	2 0 0	3 3 0

In the River Thames above Gravesend.	{	For a boat of a class carrying an anchor of above 4 cwt. with a corresponding tow line	£2 2 0	{	Per trip for the whole distance from Gravesend to London and in proportion for any part of that distance.
		2 cwt. Do.	1 1 0		
		under 2 cwt. Do.	0 15 0		
Aud for each man's service in those boats, 8s. per tide.					
For removing a ship from moorings into a dry or wet dock :					
For a ship under 300 tons					£0 15 0
" 300 to 600 "					1 1 0
" 600 to 1,000 "					1 11 6
" above 1,000 "					2 2 0

(*) When the pilot is put on board by a boat from the shore, one-seventh to the pilot, and the remaining six-sevenths to the boat and crew.

TWENTY-SECOND SCHEDULE.

REPEAL.

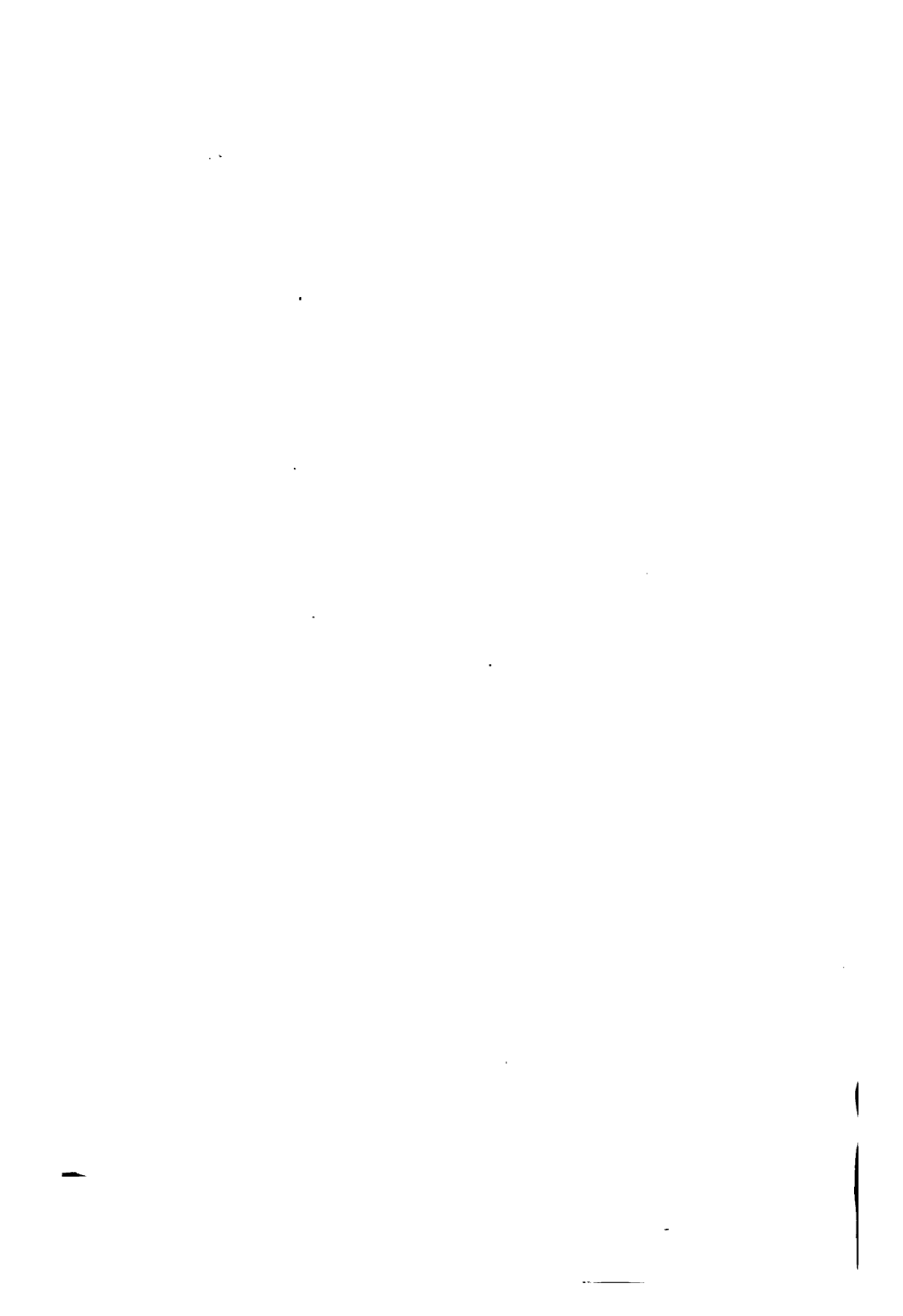
Session and chapter.	Short title.	Extent of repeal.
17 Edw. II. Stat. 2. c. 11. (Prerog. Reg. Stat. temp. incert. c. 13 in Rev. Edition).	Prerogativa Regis . . .	The words "wreck of the sea."
4 Geo. IV. c. 80.	An Act to consolidate and amend the several laws now in force with respect to trade within the limits of the charter of the East India Company, and to make further provision with respect to such trade.	Section twenty-seven, section twenty-eight, from "and for every omission" to "herein is required" and the word "omission" after "non-observance," and section thirty-four.

Session and chapter.	Short title.	Extent of repeal.
15 & 16 Vict. c. 26.	The Foreign Deserters Act, 1852.	The whole Act.
16 & 17 Vict. c. 84.	An Act to amend the Passengers Act, 1852, so far as relates to the passages of natives of Asia or Africa, and also passages between the Island of Ceylon and certain parts of the East Indies.	The whole Act.
17 & 18 Vict. c. 104.	The Merchant Shipping Act, 1854.	The whole Act.
17 & 18 Vict. c. 120.	The Merchant Shipping Repeal Act, 1854.	Section sixteen.
18 & 19 Vict. c. 91.	The Merchant Shipping Act Amendment Act, 1855.	The whole Act.
18 & 19 Vict. c. 119.	The Passengers Act, 1855.	The whole Act.
19 & 20 Vict. c. 41.	The Seamen's Savings Bank Act, 1856.	The whole Act.
24 & 25 Vict. c. 10.	The Admiralty Court Act, 1861.	Sections nine, twelve, and twenty-four.
24 & 25 Vict. c. 52.	The Australian Passengers Act, 1861.	The whole Act.
25 & 26 Vict. c. 63.	The Merchant Shipping Amendment Act, 1862.	The whole Act.
26 & 27 Vict. c. 51.	The Passengers Act Amendment Act, 1863.	The whole Act.
30 & 31 Vict. c. 114.	The Court of Admiralty (Ireland) Act, 1867.	Sections thirty-five and forty-five.
30 & 31 Vict. c. 124.	The Merchant Shipping Act, 1867.	The whole Act, except section one as far as "Act, 1867," and section twelve.
31 & 32 Vict. c. 45.	The Sea Fisheries Act, 1868.	Sections twenty-two to twenty-four.
31 & 32 Vict. c. 129.	The Colonial Shipping Act, 1868.	The whole Act.
32 & 33 Vict. c. 11.	The Merchant Shipping (Colonial) Act, 1869.	The whole Act.

Session and chapter.	Short title.	Extent of repeal.
33 & 34 Vict. c. 95.	The Passengers Act Amendment Act, 1870 (<i>m</i>).	The whole Act.
34 & 35 Vict. c. 110.	The Merchant Shipping Act, 1871.	The whole Act.
35 & 36 Vict. c. 73.	The Merchant Shipping Act, 1872.	The whole Act, except sections one, ten, and seventeen.
36 & 37 Vict. c. 85.	The Merchant Shipping Act, 1873.	The whole Act.
37 & 38 Vict. c. 88.	The Births and Deaths Registration Act, 1874.	Section thirty-seven, except sub-section (6), and except so far as the section relates to Her Majesty's ships.
38 & 39 Vict. c. 17.	The Explosives Act, 1875 .	Section forty-two.
39 & 40 Vict. c. 27.	The Local Light Dues Reduction Act, 1876.	The whole Act.
39 & 40 Vict. c. 80.	The Merchant Shipping Act, 1876.	The whole Act.
40 & 41 Vict. c. 16.	The Removal of Wreck Act, 1877.	The whole Act.
42 & 43 Vict. c. 72.	The Shipping Casualties Investigation Act, 1879.	The whole Act.
43 & 44 Vict. c. 16.	The Merchant Seamen Payment of Wages and Rating Act, 1880.	The whole Act, except the first paragraph of section one and section eleven.
43 & 44 Vict. c. 18.	The Merchant Shipping Act (1854) Amendment Act, 1880.	The whole Act.
43 & 44 Vict. c. 22.	The Merchant Shipping (Fees and Expenses) Act, 1880.	Sections two, five, six and seven.
43 & 44 Vict. c. 43.	The Merchant Shipping (Carriage of Grain) Act, 1880.	The whole Act.
45 & 46 Vict. c. 55.	The Merchant Shipping (Expenses) Act, 1882.	The whole Act, except the first paragraph of section one and section eight.
45 & 46 Vict. c. 76.	The Merchant Shipping (Colonial Inquiries) Act, 1882.	The whole Act.

(*m*) Printed 1876 in Queen's printer's copy.

Session and chapter.	Short title.	Extent of repeal.
46 & 47 Vict. c. 22.	The Sea Fisheries Act, 1883.	Section eight.
46 & 47 Vict. c. 41.	The Merchant Shipping (Fishing Boats) Act, 1883.	The whole Act.
49 & 50 Vict. c. 38.	The Riot (Damages) Act, 1886.	In section six, Paragraph (a.), and the words "plundering, damage," before "injury;" and from "and as if" to the end of the section.
50 & 51 Vict. c. 4.	The Merchant Shipping (Fishing Boats) Act, 1887.	The whole Act.
50 & 51 Vict. c. 62.	The Merchant Shipping (Miscellaneous) Act, 1887.	The whole Act.
51 & 52 Vict. c. 24.	The Merchant Shipping (Life Saving Appliances) Act, 1888.	The whole Act.
52 & 53 Vict. c. 5.	The Removal of Wrecks Act (1877) Amendment Act, 1889.	The whole Act.
52 & 53 Vict. c. 29.	The Passenger Acts Amendment Act, 1889.	The whole Act.
52 & 53 Vict. c. 43.	The Merchant Shipping (Tonnage) Act, 1889.	The whole Act.
52 & 53 Vict. c. 46.	The Merchant Shipping Act, 1889.	The whole Act.
52 & 53 Vict. c. 68.	The Merchant Shipping (Pilotage) Act, 1889.	The whole Act.
52 & 53 Vict. c. 73.	The Merchant Shipping (Colours) Act, 1889.	The whole Act.
53 & 54 Vict. c. 9.	The Merchant Shipping Act, 1890.	The whole Act.
55 & 56 Vict. c. 37.	The Merchant Shipping Act, 1892.	The whole Act.



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APPENDIX I.

INTERPRETATION ACT, 1889.

52 & 53 Vict. c. 63.

An Act for consolidating enactments relating to the Construction of Acts of Parliament and for further shortening the Language used in Acts of Parliament.

[30th August, 1889.]

* * * *

Re-enactment of Existing Rules.

Rules as
to gender
and
number.

1.—(1.) In this Act and in every Act passed after the year one thousand eight hundred and fifty, whether before or after the commencement of this Act, unless the contrary intention appears—

(a.) words importing the masculine gender shall include females; and

(b.) words in the singular shall include the plural, and words in the plural shall include the singular.

* * * *

Applica-
tion of
penal Acts
to bodies
corporate.

2.—(1.) In the construction of every enactment relating to an offence punishable on indictment or on summary conviction, whether contained in an Act passed before or after the commencement of this Act, the expression “person” shall, unless the contrary intention appears, include a body corporate.

(2.) Where under any Act, whether passed before or after the commencement of this Act, any forfeiture or penalty is payable to a party aggrieved, it shall be payable to a body corporate in every case where that body is the party aggrieved.

Meanings
of certain

3. In every Act passed after the year one thousand eight

hundred and fifty, whether before or after the commencement of this Act, the following expressions shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them; namely—

words in
Acts since
1850.

The expression "month" shall mean calendar month:

The expression "land" shall include messuages, tenements, and hereditaments, houses, and buildings of any tenure:

The expressions "oath" and "affidavit" shall, in the case of persons for the time being allowed by law to affirm or declare instead of swearing, include affirmation and declaration, and the expression "swear" shall, in the like case, include affirm and declare.

* * * * *

5. In every Act passed after the year one thousand eight hundred and sixty-six, whether before or after the commencement of this Act, the expression "parish" shall, unless the contrary intention appears, mean, as respects England and Wales, a place for which a separate poor rate is or can be made, or for which a separate overseer is or can be appointed.

Meaning
of
"parish."

6. In this Act, and in every Act and Order of Council passed or made after the year one thousand eight hundred and forty-six, whether before or after the commencement of this Act, the expression "county court" shall, unless the contrary intention appears, mean as respects England and Wales, a court under the County Courts Act, 1888.

Meaning
of "county
court."

51 & 52
Vict. c. 43.

7. In every Act relating to Scotland, whether passed before or after the commencement of this Act, unless the contrary intention appears—

Meaning
of "sheriff
clerk," &c.,
in Scotch
Acts.

The expression "sheriff clerk" shall include steward clerk;

The expressions "shire," "sheriffdom," and "county" shall include any stewardry in Scotland.

* * * * *

Effect of
repeal in
Acts
passed
since 1850.

11.—(1.) Where an Act passed after the year one thousand eight hundred and fifty, whether before or after the commencement of this Act, repeals a repealing enactment, it shall not be construed as reviving any enactment previously repealed, unless words are added reviving that enactment.

(2.) Where an Act passed after the year one thousand eight hundred and fifty, whether before or after the commencement of this Act, repeals wholly or partially any former enactment and substitutes provisions for the enactment repealed, the repealed enactment shall remain in force until the substituted provisions come into operation.

New General Rules of Construction.

Official
definitions
in past
and future
Acts.

12. In this Act, and in every other Act, whether passed before or after the commencement of this Act, the following expressions shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them, namely:—

(1.) The expression “the Lord Chancellor” shall, except when used with reference to Ireland only, mean the Lord High Chancellor of Great Britain for the time being, and when used with reference to Ireland only, shall mean the Lord Chancellor of Ireland for the time being.

(2.) The expression “the Treasury” shall mean the Lord High Treasurer for the time being or the Commissioners for the time being of Her Majesty’s Treasury.

(3.) The expression “Secretary of State” shall mean one of Her Majesty’s Principal Secretaries of State for the time being.

(4.) The expression “the Admiralty” shall mean the Lord High Admiral of the United Kingdom for the time being, or the Commissioners for the time being for executing the office of Lord High Admiral of the United Kingdom.

(5.) The expression “the Privy Council” shall, except when used with reference to Ireland only, mean the Lords and others for the time being of Her Majesty’s Most Honourable Privy Council, and when used with reference

to Ireland only, shall mean the Privy Council of Ireland for the time being.

(8.) The expression "the Board of Trade" shall mean the Lords of the Committee for the time being of the Privy Council appointed for the consideration of matters relating to trade and foreign plantations.

(9.) The expression "Lord Lieutenant," when used with reference to Ireland, shall mean the Lord Lieutenant of Ireland or other Chief Governors or Governor of Ireland for the time being.

(10.) The expression "Chief Secretary," when used with reference to Ireland, shall mean the Chief Secretary to the Lord Lieutenant for the time being.

(20.) The expression "consular officer" shall include consul-general, consul, vice-consul, consular agent, and any person for the time authorized to discharge the duties of consul-general, consul, or vice-consul.

13. In this Act and in every other Act, whether passed before or after the commencement of this Act, the following expressions shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them, namely:—

Judicial
definitions
in past
and future
Acts.

(1.) The expression "Supreme Court," when used with reference to England or Ireland, shall mean the Supreme Court of Judicature in England or Ireland, as the case may be, or either branch thereof.

(3.) The expression "High Court," when used with reference to England or Ireland, shall mean Her Majesty's High Court of Justice in England or Ireland, as the case may be.

(6.) The expression "the Summary Jurisdiction Act, 1848," shall mean the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to facilitate the

performance of the duties of justices of the peace out of sessions within England and Wales with respect to summary convictions and orders."

(7.) The expression "the Summary Jurisdiction (England) Acts" and the expression "the Summary Jurisdiction (English) Acts" shall respectively mean the Summary Jurisdiction Act, 1848, and the Summary Jurisdiction Act, 1879, and any Act, past or future, amending those Acts or either of them.

* * * * *

(10.) The expression "the Summary Jurisdiction Acts" when used in relation to England or Wales shall mean the Summary Jurisdiction (England) Acts, and when used in relation to Scotland the Summary Jurisdiction (Scotland) Acts, and when used in relation to Ireland the Summary Jurisdiction (Ireland) Acts.

(11.) The expression "court of summary jurisdiction" shall mean any justice or justices of the peace, or other magistrate, by whatever name called, to whom jurisdiction is given by, or who is authorized to act under, the Summary Jurisdiction Acts, whether in England, Wales, or Ireland, and whether acting under the Summary Jurisdiction Acts or any of them, or under any other Act, or by virtue of his commission, or under the common law.

(12.) The expression "petty sessional court" shall, as respects England or Wales, mean a court of summary jurisdiction consisting of two or more justices when sitting in a petty sessional court-house, and shall include the Lord Mayor of the City of London, and any alderman of that city, and any metropolitan or borough police magistrate or other stipendiary magistrate when sitting in a court-house or place at which he is authorized by law to do alone any act authorized to be done by more than one justice of the peace.

(13.) The expression "petty sessional court-house" shall, as respects England or Wales, mean a court-house or other place at which justices are accustomed to assemble for holding special or petty sessions, or which is for the

time being appointed as a substitute for such a court-house or place, and where the justices are accustomed to assemble for either special or petty sessions at more than one court-house or place in a petty sessional division, shall mean any such court-house or place. The expression shall also include any court-house or place at which the Lord Mayor of the city of London or any alderman of that city, or any metropolitan or borough police magistrate or other stipendiary magistrate is authorized by law to do alone any act authorized to be done by more than one justice of the peace.

(14.) The expression "court of quarter sessions" shall mean the justices of any county, riding, parts, division, or liberty of a county, or of any county of a city, or county of a town, in general or quarter sessions assembled, and shall include the court of the recorder of a municipal borough having a separate court of quarter sessions.

14. In every Act passed after the commencement of this Act, unless the contrary intention appears, the expression "rules of court" when used in relation to any court shall mean rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of such court, and as regards Scotland shall include acts of adjournal and acts of sederunt.

Meaning
of "rules
of court."

The power of the said authority to make rules of court as above defined shall include a power to make rules of court for the purpose of any Act passed after the commencement of this Act, and directing or authorizing anything to be done by rules of court.

* * * * *

16. In this Act and in every Act passed after the commencement of this Act the following expressions shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them, namely:—

Meaning
of
guardians
and union.

(1.) The expression "board of guardians" shall, as respects England and Wales, mean a board of guardians elected under the Poor Law Amendment Act, 1834, and the Acts amending the same, and shall include a board of

4 & 5
Will. IV.
c. 76.

guardians or other body of persons performing under any local Act the like functions to a board of guardians under the Poor Law Amendment Act, 1834.

(2.) The expression "poor law union" shall, as respects England and Wales, mean any parish or union of parishes for which there is a separate board of guardians.

(3.) The expression "board of guardians" shall, as respects Ireland, mean a board of guardians elected under the Act of the Session of the first and second years of the reign of Her present Majesty, chapter fifty-six, intituled "An Act for the more effectual relief of the destitute poor in Ireland," and the Acts amending the same, and shall include any body of persons appointed by the Local Government Board for Ireland to carry into execution the provisions of those Acts.

(4.) The expression "poor law union" shall, as respects Ireland, mean any townland or place or union, or townlands or places, for which there is a separate board of guardians.

* * * * *

Geo-
graphical
and
colonial
definitions
in future
Acts.

18. In this Act, and in every Act passed after the commencement of this Act, the following expressions shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them, namely:—

(1.) The expression "British Islands" shall mean the United Kingdom, the Channel Islands, and the Isle of Man.

(2.) The expression "British possession" shall mean any part of Her Majesty's dominions exclusive of the United Kingdom, and where parts of such dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one British possession.

(3.) The expression "colony" shall mean any part of Her Majesty's dominions exclusive of the British Islands, and of British India, and where parts of such dominions are under both a central and a local legislature, all parts under the central legislature shall, for the purposes of this definition, be deemed to be one colony.

(4.) The expression "British India" shall mean all territories and places within Her Majesty's dominions which are for the time being governed by Her Majesty through the Governor-General of India or through any governor or other officer subordinate to the Governor-General of India.

(5.) The expression "India" shall mean British India together with any territories of any native prince or chief under the suzerainty of Her Majesty exercised through the Governor-General of India, or through any governor or other officer subordinate to the Governor-General of India.

(6.) The expression "Governor" shall, as respects Canada and India, mean the Governor-General, and include any person who for the time being has the powers of the Governor-General, and as respects any other British possession, shall include the officer for the time being administering the government of that possession.

(7.) The expression "colonial legislature" and the expression "legislature," when used with reference to a British possession, shall respectively mean the authority, other than the Imperial Parliament or Her Majesty the Queen in Council, competent to make laws for a British possession.

19. In this Act and in every Act passed after the commencement of this Act the expression "person" shall, unless the contrary intention appears, include any body of persons corporate or unincorporate.

Meaning of "person" in future Acts.

20. In this Act and in every other Act whether passed before or after the commencement of this Act expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography, and other modes of representing or reproducing words in a visible form.

Meaning of "writing" in past and future Act.

* * * * *

23. In any Act passed after the commencement of this Act, unless the contrary intention appears,—

Definition of Lands Clauses Acts.

The expression "Lands Clauses Act" shall mean—

(a) as respects England and Wales, the Lands Clauses

8 & 9
 Vict. c. 18.
 23 & 24
 Vict. c.
 106.
 32 & 33
 Vict. c. 18.
 46 & 47
 Vict. c. 15.
 8 & 9
 Vict. c. 19.
 23 & 24
 Vict. c.
 106.

Consolidation Act, 1845, the Lands Clauses Consolidation Acts Amendment Act, 1860, the Lands Clauses Consolidation Act, 1869, and the Lands Clauses (Umpire) Act, 1883, and any Acts for the time being in force amending the same; and

8 & 9
 Vict. c. 18.
 23 & 24
 Vict. c. 97.
 14 & 15
 Vict. c. 70.
 27 & 28
 Vict. c. 7
 31 & 32
 Vict. c. 70.

(b) as respects Scotland, the Lands Clauses Consolidation (Scotland) Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860, and any Acts for the time being in force amending the same; and

(c) as respects Ireland, the Lands Clauses Consolidation Act, 1845, the Lands Clauses Consolidation Acts Amendment Act, 1860, the Railways Act (Ireland), 1851, the Railways Act (Ireland), 1860, the Railways Act (Ireland), 1864, and the Railways Traverse Act, and any Acts for the time being in force amending the same.

* * * * *

Meaning
 of service
 by post.

28. Where an Act passed after the commencement of this Act authorizes or requires any document to be served by post, whether the expression "serve," or the expression "give" or "send," or any other expression is used, then, unless the contrary intention appears, the service shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the document, and unless the contrary is proved to have been effected at the time at which the letter would be delivered in the ordinary course of post.

* * * * *

Meanings
 of
 "sheriff,"
 "felony,"
 and
 "misdemeanour"
 in future
 Scotch
 Acts.

28. In this Act and in every Act passed after the commencement of this Act, unless the contrary intention appears—

The expression "sheriff" shall, as respects Scotland, include a sheriff substitute:

The expression "felony" shall, as respects Scotland, mean a high crime and offence:

The expression "misdemeanour" shall, as respects Scotland, mean an offence.

29. In every Act passed after the commencement of this Act, unless the contrary intention appears, the expression "county court" shall, as respects Ireland, mean a civil bill court within the meaning of the County Officers and Courts (Ireland) Act, 1877.

Meaning of "county court" in future Irish Acts. 40 & 41 Vict. c. 58.

30. In this Act and in every other Act, whether passed before or after the commencement of this Act, references to the Sovereign reigning at the time of the passing of the Act or to the Crown shall, unless the contrary intention appears, be construed as references to the Sovereign for the time being, and this Act shall be binding on the Crown.

References to the Crown.

31. Where any Act, whether passed before or after the commencement of this Act, confers power to make, grant, or issue any instrument, that is to say, any Order in Council, order, warrant, scheme, letters patent, rules, regulations, or byelaws, expressions used in the instrument, if it is made after the commencement of this Act, shall, unless the contrary intention appears, have the same respective meanings as in the Act conferring the power.

Construction of statutory rules, &c.

32.—(1.) Where an Act passed after the commencement of this Act confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.

Construction of provisions as to exercise of powers and duties.

(2.) Where an Act passed after the commencement of this Act confers a power or imposes a duty on the holder of an office, as such, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed by the holder for the time being of the office.

(3.) Where an Act passed after the commencement of this Act confers a power to make any rules, regulations, or byelaws, the power shall, unless the contrary intention appears, be construed as including a power, exerciseable in the like manner and subject to the like consent and conditions, if any, to rescind, revoke, amend, or vary the rules, regulations, or byelaws.

Provisions
as to
offences
under two
or more
laws.

33. Where an act or omission constitutes an offence under two or more Acts, or both under an Act and at common law, whether any such Act was passed before or after the commencement of this Act, the offender shall, unless the contrary intention appears, be liable to be prosecuted and punished under either or any of those Acts or at common law, but shall not be liable to be punished twice for the same offence.

* * * * *

"Commencement."

36.—(1.) In this Act, and in every Act passed either before or after the commencement of this Act, the expression "commencement," when used with reference to an Act, shall mean the time at which the Act comes into operation.

(2.) Where an Act passed after the commencement of this Act, or any Order in Council, order, warrant, scheme, letters patent, rules, regulations, or byelaws made, granted, or issued, under a power conferred by any such Act, is expressed to come into operation on a particular day, the same shall be construed as coming into operation immediately on the expiration of the previous day.

Exercise
of statu-
tory
powers
between
passing
and com-
mence-
ment of
Act.

37. Where an Act passed after the commencement of this Act is not to come into operation immediately on the passing thereof, and confers power to make any appointment, to make, grant, or issue any instrument, that is to say, any Order in Council, order, warrant, scheme, letters patent, rules, regulations, or byelaws, to give notices, to prescribe forms, or to do any other thing for the purposes of the Act, that power may, unless the contrary intention appears, be exercised at any time after the passing of the Act, so far as may be necessary or expedient for the purpose of bringing the Act into operation at the date of the commencement thereof, subject to this restriction, that any instrument made under the power shall not, unless the contrary intention appears in the Act, or the contrary is necessary for bringing the Act into operation, come into operation until the Act comes into operation.

38.—(1.) Where this Act or any Act passed after the commencement of this Act repeals and re-enacts, with or without modification, any provisions of a former Act, references in any other Act to the provisions so repealed, shall, unless the contrary intention appears, be construed as references to the provisions so re-enacted.

(2.) Where this Act or any Act passed after the commencement of this Act repeals any other enactment, then, unless the contrary intention appears, the repeal shall not—

- (a.) revive anything not in force or existing at the time at which the repeal takes effect ; or,
- (b.) affect the previous operation of any enactment so repealed or anything duly done or suffered under any enactment so repealed ; or
- (c.) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment so repealed ; or
- (d.) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment so repealed ; or
- (e.) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid ;

and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed, as if the repealing Act had not been passed.

* * * * *

Supplemental.

43. This Act may be cited as the Interpretation Act, 1889. Short title.

APPENDIX II.

RULES OF THE SUPREME COURT (MERCHANT SHIPPING), 1894.

Note (a).

[THE Joint Committee of the two Houses on Statute Law Revision, to which the Merchant Shipping Consolidation Bill was referred, authorized the omission of certain detailed provisions as to practice from the Bill on the ground that they dealt with matters which should be provided for by Rules of Court, and should not be included in the statute itself.

The determination of the Division of the High Court by which the jurisdiction with respect to various matters under the Bill is to be exercised has also been left to Rules of Court.

The first of the following rules represents the present law with regard to the exercise of the jurisdiction, while the other two reproduce the existing provisions with regard to the matters which the committee decided should be dealt with by Rules, with such alterations only as are necessary to make them consistent with modern practice.

There has been no application under the provisions reproduced in the Rules dealing with the repayment of money on volunteering into the Navy for the last twenty years, the last application being in June, 1874, but the power to apply still exists, and the procedure is therefore reproduced.]

(a) Affixed to the draft Rules, when published by the Rules Committee pursuant to the Rules Publication Act, 1893.

General Jurisdiction under Merchant Shipping Act, 1894.

1. The jurisdiction of the High Court under the Merchant Shipping Act, 1894 (in these rules referred to as "the Act"), with the exception of that under sections twenty-eight, thirty, and five hundred and four of the Act, shall be assigned to the Probate, Divorce, and Admiralty Division.

Application under Section 30 of the Merchant Shipping Act, 1894.

2. Any application under section thirty of the Merchant Shipping Act, 1894, may be made by summons or otherwise, and either *ex parte* or upon service of notice on any person as the court may direct.

Application as to Excess of Wages paid on Seamen Volunteering into the Navy.

3.—(1.) Any application to the High Court under section one hundred and ninety-seven of the Act shall be made to the Admiralty Registrar, and shall be in such form, and shall be accompanied by such documents and by such statements, whether on oath or otherwise, as the President of the Probate, Divorce, and Admiralty Division directs.

(2.) The registrar shall, on receiving the application, give written notice thereof and of the sum claimed to the Admiralty, and shall proceed to examine the application, and shall, if necessary, apply to the Registrar-General of Shipping and Seamen to produce any papers in his possession relating thereto, and may call for further evidence.

(3.) If the registrar considers that the whole of the claim is just, he shall give a certificate accordingly, but if he considers that the claim or any part thereof is not just, he shall give notice of his opinion, in writing under his hand, to the person making the application, or his solicitor or agent.

(4.) If within sixteen days from the giving of the last-mentioned notice the person to whom the notice is given does not cause to be left at the Admiralty Registry a written

notice demanding that the application be referred to the judge, the registrar shall finally decide thereon, and certify accordingly.

(5.) If the notice is left as aforesaid, the application shall stand referred to the judge in chambers, and his decision thereon shall be final, and the registrar shall certify the same accordingly.

(6.) The judge and registrar shall in any proceeding under these Rules have full power to administer oaths, and to exercise all the ordinary powers of the court, as in any other proceeding within its jurisdiction; and the judge or registrar (as the case may be) may, if he thinks fit, allow for the costs of any such proceeding any sum not exceeding five pounds for each seaman in respect of whom application is made; and that sum shall be added to the sum authorized to be repaid under the Act, and shall be certified by the registrar accordingly.

4. These Rules may be cited as "The Rules of the Supreme Court (Merchant Shipping), 1894."

December 10, 1894.

(Signed) HERSCHELL, C.
 RUSSELL OF KILLOWEN, C.J.
 ESHER, M.R.
 F. H. JEUNE, P.
 A. L. SMITH, L.J.
 JOSEPH W. CHITTY, J.
 HERBERT H. COZENS-HARDY.
 R. B. FINLAY.
 JOHN HUNTER.

APPENDIX III.

FORMS IN PART II. OF SCHEDULE I., AS CONTINUED BY
§ 745, s. 1 OF THIS ACT (a).

CERTIFICATE OF SURVEY.

Name of ship.		Port of intended registry.		Official number, if there has been any former registry.	
Whether British or foreign built.	Whether a sailing or steam ship; and if a steam ship, how propelled.	Where built.	When built.	Name and address of builders.	

Number of decks . . .	Length from fore part of stem, under the bowsprit, to the aft side of the head of the stern-post . . .	Feet. Tenths.
Number of masts . . .	Length at quarter of depth from top of weather deck at side amidships to bottom of keel . . .	
Rigged	Main breadth to outside of plank . . .	
Stern	Depth in hold from tonnage deck to ceiling at midships . . .	
Build	Depth in hold from upper deck to ceiling at midships, in the case of three decks and upwards . . .	
Galleries	Depth from top of beam amidships to top of keel . . .	
Head	Depth from top of deck at side amidships to bottom of keel . . .	
Framework and description of vessel	Round of beam	
Number of bulkheads	Length of engine-room (if any)	
Number of water ballast tanks, and their capacity in tons		

PARTICULARS OF DISPLACEMENT.

Total to quarter the depth from weather deck at side amidships to bottom of keel }	tons.	Ditto per inch immersion at same depth }	tons.
--	-------	--	-------

(a) These forms are under revision by a committee appointed by the Board of Trade, but it is understood that only slight alterations will be

made, chiefly in the particulars of tonnage. The forms as revised have not yet been issued.

PARTICULARS OF ENGINES, &c. (if any).

No. of engines.	Description.	Whether British or foreign made.	When made.	Name and address of makers.	No. of and diameter of cylinders.	Length of stroke.	N. H. P. I. H. P. Speed of ship.
	Engines.		Engines.	Engines.			
	Bollers. Number . . Iron or steel . Pressure when loaded . .		Bollers.	Bollers.			

PARTICULARS OF TONNAGE.

GROSS TONNAGE.	No. of tons.	DEDUCTION ALLOWED.	No. of tons.
Under tonnage deck		On account of space required for propelling power	
Closed-in spaces above the tonnage decks (if any):		On account of spaces occupied by seamen or apprentices, and appropriated to their use, and kept free from goods or stores of every kind, not being the personal property of the crew.	
Space or spaces between decks . .		These spaces are the following, viz.:-	
Poop			
Forecastle			
Round house			
Other closed-in spaces, if any, as follows:-			
		Deductions under § 3 of Act of 1889, as follows:-	
Spaces for machinery, and light, and air, under § 2 of Act of 1889, if required		Cubic metres.	
Gross tonnage			
Deductions, as p-r contra			
Registered tonnage		Total	

I, the undersigned _____, having surveyed the above-named ship, hereby certify that the above particulars are true, and that her name is marked on each of her bows (b), and her name and the port of registry are properly marked on a conspicuous part of her stern (b), a scale of feet marked on each side of her stem and of her stern-post (b), and lines permanently and conspicuously marked on each side amidships indicating the position of each deck which is above water (c), in manner directed by the Merchant Shipping Acts, 1854 to 1876.

Dated at _____ this _____ day of _____, 189 . _____ Surveyor.

(b) § 7.

(c) § 437.

FORMS 2 AND 6 IN PART II. OF SCHEDULE I. ARE THE
SAME, AS FOLLOWS :—

RESIDENT OR NON-RESIDENT }
OWNER OR TRANSFEREE } NATURAL-BORN SUBJECT.

DECLARATION OF OWNERSHIP BY INDIVIDUAL (d).

Official number.	Name of ship.	No., date, and port of registry.
	(a)	
No., date, and port of previous registry (if any).		

(a) If foreign built,
add "and her foreign
name is

Whether British or foreign built.	Whether a sailing or steam ship; and if a steam ship, how propelled.	Where built.	When built.	Name and address of builders.
(b)				

(b) If British, insert
"BRITISH."

Number of decks . . .	Length from forepart of stem, under the bowsprit, to the aft side of the head of the stern-post . . .	Feet.	Tenths.
Number of masts . . .	Length at quarter of depth from top of weather deck at side amidships to bottom of keel . . .		
Rigged	Main breadth to outside of plank . . .		
Stern	Depth in hold from tonnage deck to ceiling at midships . . .		
Build	Depth in hold from upper deck to ceiling at midships, in the case of three decks and upwards . . .		
Galleries	Depth from top of beam amidships to top of keel . . .		
Head	Depth from top of deck at side amidships to bottom of keel . . .		
Framework and description of vessel	Round of beam . . .		
Number of bulkheads . . .	Length of engine-room (if any) . . .		
Number of water ballast tanks, and their capacity in tons			

"Built at . . . in
the county of . . .
on the . . . day
of . . . 18 . . ."
If foreign, insert
"FOREIGN."
"Built at . . ."
[naming the place and
country] "on the
day of . . . 18 . . ."
or,
if foreign, and time
and place of build
unknown, insert
"FOREIGN."
"Time and place of
build are unknown to
the declarant."

PARTICULARS OF DISPLACEMENT.

Total to quarter the depth from weather deck at side amidships to bottom of keel } tons.	Ditto per inch immersion } tons.
---	----------------------------------

or,
if a condemned ship,
insert
"condemned by the
court of" [naming
the court] "on the
day of . . . 18 . . ."

PARTICULARS OF ENGINES (if any).

No. of engines.	Description.	Whether British or foreign made.	When made.	Name and address of makers.	No. of and diameter of cylinders.	Length of stroke.	N. H. P. I. H. P. Speed of ship.
	Engines.		Engines.	Engines.			
	Boilers. Number . . . Iron or steel . . . Pressure when loaded . . .		Boilers.	Boilers.			

(d) Required by §§ 9, 25.

PARTICULARS OF TONNAGE.

	GROSS TONNAGE.	No. of tons.	DEDUCTIONS ALLOWED.	No. of tons.
(c) If in the presence of a registrar, he will add to his signature "Registrar of the Port of . . ." If in the presence of a magistrate, his description should be added, as, for example, "Justice of the peace acting in and for" [naming the county, city, borough, &c., as the case may be].	Under tonnage deck . . . Closed-in spaces above the tonnage deck (if any): Space or spaces between decks . . . Poup . . . Forecastle . . . Round house . . . Other closed-in spaces, if any, as follows:—		On account of space required for propelling power On account of spaces occupied by seamen or apprentices, and appropriated to their use, and kept free from goods or stores of every kind, not being the personal property of the crew. These spaces are the following, viz.:— Deductions under § 3, Act of 1889, as follows:—	
(d) Here insert such of the descriptions as are applicable.	Spaces for machinery, light, and air, Act of 1889, § 2 . . .		Cubic metres.	
"An Act of Parliament of the United Kingdom" [cite the year of the reign in which the Act was passed, its chapter and title]. "The said Company is subject to the laws of the and has its principal place of business at . . ."	Gross tonnage . . . Deductions, as per contra . . . Registered tonnage . . .			Total . . .

I, the undersigned of declare as follows:—I am a natural-born British subject, born at in the county of and have never taken the Oath of Allegiance to any foreign state. The above general description of the ship is correct. whose certificate of competency or service is No. , is the master of the said ship. I am entitled to be registered as owner of shares of the ship. To the best of my knowledge and belief, no person or body of persons other than such persons or body of persons as are by the Merchant Shipping Act, 1854, qualified to be owners of British ships is entitled, as owner, to any interest whatever, either legal or beneficial, in the said ship. And I make this solemn declaration conscientiously believing the same to be true. Made and subscribed the day of , 18 , by the above-named in the presence of (c)-----

FORMS 3 AND 7 IN PART II. OF SCHEDULE I. ARE THE SAME AS FOLLOWS:—

DECLARATION OF OWNERSHIP ON BEHALF OF A BODY CORPORATE (c).

[The declaration commences with a tabular description of the ship, exactly similar to that contained in the previous form, and continues as follows:—]

I, the undersigned the county of of the Company, declare as follows:—The said Company was incorporated by virtue of (d) . The above general description of the ship is correct. , whose certificate of competency or service is No. , is master of the said ship. The said Company is entitled to be registered as owner of shares in the said ship. To the best of my knowledge and belief, no person or body of persons other than such persons or bodies of persons as are by the Merchant Shipping Act, 1854, qualified to be owners of British ships is entitled, as owner, to any interest whatever, either legal or beneficial, in the said ship. And I make this solemn declaration conscientiously believing the same to be true. Made and subscribed the day of , 18 , by the above-named in the presence of

(c) Required by §§ 3, 25.

FORM OF CERTIFICATE OF BRITISH REGISTRY (f).

PARTICULARS OF SHIP.

Official number.	Name of ship.	No., date, and port of registry.		No., date, and port of previous registry (if any).

Whether British or foreign built.	Whether a sailing or steam ship; and if a steam ship, how propelled.	Where built.	When built.	Name and address of builders.

Number of decks	Length from forepart of stem, under the bowsprit, to the aft side of the head of the stern-post	Feet. Tenths.
Number of masts	Length at quarter of depth from top of weather deck at side amidships to bottom of keel	
Rigged	Main breadth to outside of plank	
Stern	Depth in hold from tonnage deck to ceiling at midships	
Build	Depth in hold from upper deck to ceiling at midships, in the case of three decks and upwards	
Galleries	Depth from top of beam amidships to top of keel	
Head	Depth from top of deck at side amidships to bottom of keel	
Framework and description of vessel	Round of beam	
Number of bulkheads	Length of engine-room (if any)	
Number of water ballast tanks, and their capacity in tons		

PARTICULARS OF DISPLACEMENT.

Total to quarter the depth from weather deck at side amidships to bottom of keel } tons. Ditto per inch immersion at same depth } tons.

PARTICULARS OF ENGINES (if any).

No. of engines.	Description.	Whether British or foreign made.	When made.	Name and address of makers.	No. of and diameter of cylinders.	Length of stroke.	N. H. P. I. H. P. Speed of ship.
	Engines.		Engines.	Engines.			
	Boilers.		Boilers.	Boilers.			
	Number						
	Iron or steel . .						
	Pressure when loaded						

(f) § 14. The form is the same but "provisional" is written across it. for a provisional certificate (§ 22),

PARTICULARS OF TONNAGE.

GROSS TONNAGE.	No of tons.	DEDUCTIONS ALLOWED.	No. of tons.
Under tonnage deck		On account of space required for propelling power	
Closed-in spaces above the tonnage deck (if any):		On account of spaces occupied by seamen or apprentices, and appropriated to their use, and kept free from goods or stores of every kind, not being the personal property of the crew . .	
Space or spaces between decks . .		These spaces are the following, viz. :—	
Poop			
Forecastle			
Round house			
Other closed-in spaces, if any, as follows:—			
		Deductions under § 3, Act of 1889, as follows:—	
Spaces for machinery, light, and air, § 2, Act of 1889		Cubic metres.	
Gross tonnage			
Deductions, as per contra			
Registered tonnage		Total	

I, the undersigned Registrar of Shipping at the port of _____, hereby certify that the ship, the description of which is prefixed to this my certificate, has been duly surveyed, and that the above description is true; that _____, whose certificate of competency or service is No. _____, is the master of the said ship; and that the name _____, residence, and description of the owner _____, and number of sixty-fourth shares held by _____ are as follows:—

Name, residence, and occupation of the owner.	Number of sixty-fourth shares.

Dated at _____ the _____ day of _____, one thousand eight hundred and _____ Registrar of Shipping.

“NOTICE.—A certificate of registry is not a document of title. It does not necessarily contain notice of all changes of ownership, and in no case does it contain an official record of any mortgages affecting the ship.”

In case of any *change of ownership* it is important for the protection of the interests of all parties that the change should be *registered* according to law.

Should the vessel be lost, sold to foreigners, or be broken up, notice thereof, together with the certificate of registry, if in existence, should immediately be given to the Registrar of Shipping at the port of registry under a penalty of £100 for default.

For further information apply to the Registrar of Shipping, at any custom house.

FORM OF DECLARATION BY REPRESENTATIVE OF A DECEASED OWNER OR MORTGAGEE TAKING BY TRANS-MISSION (g).

[The form commences with a tabular account of the ship, exactly similar to that in the previous declarations, and continues:—]

(^a) the undersigned (^b) declare as follows:— (^c) "I" or "we."
 (^c) (^a) declare that (^d) the (^b) Here insert
 person appearing by the register book to be the (^e) of name, description,
 shares in the ship above described, died at in the county of and, in case of owner-
 ship, place of birth of
 declarant.

(^f) To the best of my knowledge and belief, no person or body of persons, (^c) In case of
 other than such persons or bodies of persons as are by the Merchant Shipping ownership, here state
 Act, 1854, qualified to be owners of British ships, is entitled, as owner, to "I am" or "we are
 any interest whatever, either legal or beneficial, in the said ship. And natural-born British
 subjects, and have
 never taken the Oath
 of Allegiance to any
 foreign state," or
 "naturalized," &c.,
 as the case may be.

(^g) make this solemn declaration conscientiously believing the same to be true.
 Made and subscribed the day of , 189 , by the above-
 named in the presence of (^h)

CERTIFICATE OF MORTGAGE(h).

[The form commences with a tabular description of the ship, exactly similar to that in the previous declarations and certificate, and continues:—]

Names of owners.	No. of shares held by each.	Account of mortgages or certificates of mortgage granted in respect of ship.
		(ⁱ)

(^j) the undersigned, being, as above stated, owner of shares in the ship above described, as stated in the foregoing account of title, hereby appoint (^k) attorney in (^l) name and on (^m) behalf to mortgage the said shares, and to execute and do all such deeds, matters, and things as may be necessary for carrying into effect the power hereby given. (ⁿ) declare that the amount of money to be raised by mortgage under this power shall not exceed , and that the rate of interest at which the sum is raised shall not exceed for every one hundred pounds by the year. (^o) declare that the power of mortgaging hereby given may be exercised at (^p) declare that the above power shall not be exercised after the expiration of months from the date hereof.

In witness whereof (^q) have hereunto subscribed (^r) names and affixed (^s) seal this day of , Registrar of , hereby certify that the above written particulars relating to the ship and the title thereto are correct; and I further certify that the said owner has duly subscribed and affixed (^t) signature and seal as appears above.

Registrar.

Nota Bene.—"Persons who purchase under a certificate of sale or who advance money under a certificate of mortgage, when there is a previous mortgage or a previous certificate of sale or of mortgage endorsed on the certificate under which they purchase, do so at their own risk. Their title is liable to be defeated by the persons claiming under the incumbrance so endorsed."

CERTIFICATE OF SALE (i).

[The form commences with a tabular description of the ship, exactly similar to that in the previous declarations, and continues:—]

Names of owners.	No. of shares held by each.	Account of mortgages or certificates of mortgage granted in respect of ship.
		(*)

(a) Every particular should be fully stated.

(b) "I" or "we." (b) , the undersigned, being owner of the ship above described, as stated in the foregoing account of title, hereby appoint
 (c) "My" or "our." (c) attorney in (c) name and on (c) behalf to sell the above ship, and to execute and to do all such deeds, matters, and things as may be necessary for carrying into effect the power hereby given.
 (b) declare that the ship shall not be sold for a less sum than
 (b) declare that the ship may be sold at
 (d) State the place or places. (d) declare that the above power shall not be exercised after the expiration of months from the date hereof.
 In witness whereof (b) have hereunto subscribed (c) names and affixed (c) seal this day of one thousand eight hundred and
 I, , Registrar of the Port of , hereby certify that the above-written particulars relating to the ship and to the title thereto are correct; and I further certify that the said owner has duly subscribed and affixed (c) signature and seal as above appears.
 (e) "His" or "their." Registrar.

Nota Bene.—"Persons who purchase under a certificate of sale or who advance money under a certificate of mortgage, when there is a previous mortgage or a previous certificate of sale or of mortgage endorsed on the certificate under which they purchase, do so at their own risk. Their title is liable to be defeated by the persons claiming under the incumbrance so endorsed."

REVOCATION OF CERTIFICATE OF MORTGAGE OR SALE (k).

[The form commences with a tabular description of the ship, exactly similar to that contained in the previous declarations, and continues:—]

(a) "I" or "we." (c) of , being owner of shares in the
 (b) "Mortgaging" ship above described, hereby revoke the power of (b) the said shares
 or "selling." given by (c) to by a certificate of (d)
 (c) "Me" or "us." dated the of one thousand eight hundred and
 (d) "Mortgage" or sale. In witness whereof (c) have hereunto subscribed (c)
 (e) "My" or "our." name and affixed (c) seal this day of one thousand eight hundred and

I, , Registrar of , hereby certify that the said owner has executed this power of revocation in manner above appearing.
 Registrar.

APPENDIX IV.

THE REGULATIONS FOR PREVENTING COLLISIONS AT SEA (a).

Art. 1. In the following rules every steamship which is under sail and not under steam is to be considered a sailing ship; and every steamship which is under steam, whether under sail or not, is to be considered a ship under steam.

Rules concerning Lights.

Art. 2. The lights mentioned in the following Articles, numbered 3, 4, 5, 6, 7, 8, 9, 10, and 11, and no others, shall be carried in all weathers, from sunset to sunrise.

Art. 3. A sea-going steamship, when under way, shall carry—

(a.) On, or in front of, the foremast, at a height above the hull of not less than twenty feet, and if the breadth of the ship exceeds twenty feet, then at a height above the hull not less than such breadth, a bright white light, so constructed as to show an uniform and unbroken light over an arc of the horizon of twenty points of the compass, so fixed as to throw the light ten points on each side of the ship, viz. from right ahead to two points abaft the beam on either side, and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least five miles.

(b.) On the starboard side, a green light, so constructed

(a) Made under § 418; the old rules continuing in force under § 745, s. 1. For cases decided on these regulations, see Marsden on

Collisions, 3rd edit. New rules, under the International Congress at Washington, may come into force in October, 1895.

as to show an uniform and unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side, and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least two miles.

(c.) On the port side, a red light, so constructed as to show an uniform and unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the port side, and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least two miles.

(d.) The said green and red sidelights shall be fitted with inboard screens projecting at least three feet forward from the light, so as to prevent these lights from being seen across the bow.

Art. 4. A steamship, when towing another ship, shall, in addition to her sidelights, carry two bright white lights in a vertical line one over the other, not less than three feet apart, so as to distinguish her from other steamships. Each of these lights shall be of the same construction and character, and shall be carried in the same position as the white light which other steamships are required to carry.

Art. 5 (a.). A ship, whether a steamship or a sailing ship, which from any accident is not under command, shall at night carry, in the same position as the white light which steamships are required to carry, and, if a steamship, in place of that light, three red lights in globular lanterns, each not less than ten inches in diameter, in a vertical line one over the other, not less than three feet apart, and of such a character as to be visible on a dark night, with a clear atmosphere, at a distance of at least two miles; and shall by day carry in a vertical line, one over the other, not less than three feet apart, in front of but not lower than her foremast head, three black balls or shapes, each two feet in diameter.

(b.) A ship, whether a steamship or a sailing ship,

employed in laying or in picking up a telegraph cable, shall at night carry, in the same position as the white light which steamships are required to carry, and, if a steamship, in place of that light, three lights in globular lanterns, each not less than ten inches in diameter, in a vertical line over one another, not less than six feet apart; the highest and lowest of these lights shall be red, and the middle light shall be white, and they shall be of such a character that the red lights shall be visible at the same distance as the white light. By day she shall carry in a vertical line, one over the other, not less than six feet apart, in front of but not lower than her foremast head, three shapes not less than two feet in diameter, of which the top and bottom shall be globular in shape and red in colour, and the middle one diamond in shape and white.

(c.) The ships referred to in this Article, when not making any way through the water, shall not carry the sidelights, but when making way shall carry them.

(d.) The lights and shapes required to be shown by this Article are to be taken by other ships as signals that the ship showing them is not under command, and cannot therefore get out of the way.

The signals to be made by ships in distress and requiring assistance are contained in Art. 27.

Art. 6. A sailing ship under way, or being towed, shall carry the same lights as are provided by Art. 3 for a steamship under way, with the exception of the white light, which she shall never carry.

Art. 7. Whenever, as in the case of small vessels during bad weather, the green and red sidelights cannot be fixed, these lights shall be kept on deck, on their respective sides of the vessel, ready for use; and shall, on the approach of or to other vessels, be exhibited on their respective sides in sufficient time to prevent collision, in such manner as to make them most visible, and so that the green light shall not be seen on the port side, nor the red light on the starboard side.

To make the use of these portable lights more certain

and easy, the lanterns containing them shall each be painted outside with the colour of the light they respectively contain, and shall be provided with proper screens.

Art. 8. A ship, whether a steamship or a sailing ship, when at anchor shall carry, where it can best be seen, but at a height not exceeding twenty feet above the hull, a white light, in a globular lantern of not less than eight inches in diameter, and so constructed as to show a clear uniform and unbroken light visible all round the horizon at a distance of at least one mile.

Art. 9. A pilot vessel, when engaged on her station on pilotage duty, shall not carry the lights required for other vessels, but shall carry a white light at the masthead, visible all round the horizon, and shall also exhibit a flare-up light or flare-up lights at short intervals, which shall never exceed fifteen minutes.

A pilot vessel, when not engaged on her station on pilotage duty, shall carry lights similar to those of other ships.

Art. 10. Open boats and fishing vessels of less than twenty tons net registered tonnage, when under way, and when not having their nets, trawls, dredges, or lines in the water, shall not be obliged to carry the coloured side-lights; but every such boat and vessel shall in lieu thereof have ready at hand a lantern with a green glass on the one side and a red glass on the other side, and, on approaching to or being approached by another vessel, such lantern shall be exhibited in sufficient time to prevent collision, so that the green light shall not be seen on the port side, nor the red light on the starboard side.

The following portion of this Article applies only to fishing vessels and boats when in the sea off the coast of Europe, lying north of Cape Finisterre :—

(a.) All fishing vessels and fishing boats of twenty tons net registered tonnage or upwards, when under way, and when not required by the following regulations in this Article to carry and show the lights therein named, shall carry and show the same lights as other vessels under way.

(b.) All vessels when engaged in fishing with drift nets shall exhibit two white lights from any part of the vessel where they can be best seen.

Such lights shall be placed so that the vertical distance between them shall be not less than six feet and not more than ten feet, and so that the horizontal distance between them, measured in a line with the keel of the vessel, shall be not less than five feet and not more than ten feet. The lower of these two lights shall be the more forward, and both of them shall be of such a character, and contained in lanterns of such a construction, as to show all round the horizon on a dark night, with a clear atmosphere, for a distance of not less than three miles.

(c.) A vessel employed in line-fishing with her lines out shall carry the same lights as a vessel when engaged in fishing with drift-nets.

(d.) If a vessel when fishing becomes stationary in consequence of her gear getting fast to a rock or other obstruction, she shall show the light and make the fog signal for a vessel at anchor.

(e.) Fishing vessels and open boats may at any time use a flare-up in addition to the lights which they are by this Article required to carry and show.

All flare-up lights exhibited by a vessel when trawling, dredging, or fishing with any kind of drag-net shall be shown at the after part of the vessel, excepting that, if the vessel is hanging by the stern to her trawl, dredge, or drag-net, they shall be exhibited from the bow.

(f.) Every fishing vessel and every open boat when at anchor, between sunset and sunrise, shall exhibit a white light visible all round the horizon at a distance of at least one mile.

(g.) In fog, mist, or falling snow, a drift-net vessel attached to her nets, and a vessel when trawling, dredging, or fishing with any kind of drag-net, and a vessel employed in line-fishing with her lines out, shall at intervals of not more than two minutes make a blast with her fog-horn and ring her bell alternately.

Art. 11.—A ship which is being overtaken by another

shall show from her stern to such last-mentioned ship a white light or a flare-up light.

Sound Signals for Fog, &c.

Art. 12. A steamship shall be provided with a steam whistle or other efficient steam sound signal, so placed that the sound may not be intercepted by any obstructions, and with an efficient fog-horn to be sounded by a bellows or other mechanical means, and also with an efficient bell. A sailing ship shall be provided with a similar fog-horn and bell.

In fog, mist, or falling snow, whether by day or night, the signals described in this Article shall be used as follows; that is to say—

(a.) A steamship under way shall make with her steam whistle, or other steam sound signal, at intervals of not more than two minutes, a prolonged blast.

(b.) A sailing ship under way shall make with her fog-horn, at intervals of not more than two minutes, when on the starboard tack, one blast; when on the port tack, two blasts in succession; and when with the wind abaft the beam, three blasts in succession.

(c.) A steamship and a sailing ship when not under way shall, at intervals of not more than two minutes, ring the bell.

Speed of Ships to be Moderate in Fogs, &c.

Art. 13. Every ship, whether a sailing ship or steamship, shall, in a fog, mist, or falling snow, go at a moderate speed.

Steering and Sailing Rules.

Art. 14. When two sailing ships are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other as follows, viz.:—

(a.) A ship which is running free shall keep out of the way of a ship which is close-hauled.

(b.) A ship which is close-hauled on the port tack shall keep out of the way of a ship which is close-hauled on the starboard tack.

(c.) When both are running free with the wind on different sides, the ship which has the wind on the port side shall keep out of the way of the other.

(d.) When both are running free with the wind on the same side, the ship which is to windward shall keep out of the way of the ship which is to leeward.

(e.) A ship which has the wind aft shall keep out of the way of the other ship.

Art. 15. If two ships under steam are meeting end on, or nearly end on, so as to involve risk of collision, each shall alter her course to starboard, so that each may pass on the port side of the other.

This Article only applies to cases where ships are meeting end on, or nearly end on, in such a manner as to involve risk of collision, and does not apply to two ships which must, if both keep on their respective courses, pass clear of each other.

The only cases to which it does apply are when each of the two ships is end on, or nearly end on, to the other; in other words, to cases in which, by day, each ship sees the masts of the other in a line, or nearly in a line, with her own; and, by night, to cases in which each ship is in such a position as to see both the sidelights of the other. It does not apply by day to cases in which a ship sees another ahead crossing her own course; or by night, to cases where the red light of one ship is opposed to the red light of the other, or where the green light of one ship is opposed to the green light of the other, or where a red light without a green light, or a green light without a red light, is seen ahead, or where both green and red lights are seen anywhere but ahead.

Art. 16. If two ships under steam are crossing so as to involve risk of collision, the ship which has the other on her own starboard side shall keep out of the way of the other.

Art. 17. If two ships, one of which is a sailing ship and the other a steamship, are proceeding in such directions as to involve risk of collision, the steamship shall keep out of the way of the sailing ship.

Art. 18. Every steamship when approaching another ship so as to involve risk of collision, shall slacken her speed, or stop and reverse, if necessary.

Art. 19. In taking any course authorized or required by these regulations, a steamship under way may indicate that course to any other ship which she has in sight by the following signals on her steam whistle, viz. :—

One short blast to mean, "I am directing my course to starboard."

Two short blasts to mean, "I am directing my course to port."

Three short blasts to mean, "I am going full speed astern."

The use of these signals is optional; but if they are used, the course of the ship must be in accordance with the signal made.

Art. 20. Notwithstanding anything contained in any preceding Article, every ship, whether a sailing ship or a steamship, overtaking any other, shall keep out of the way of the overtaken ship.

Art. 21. In narrow channels every steamship shall, when it is safe and practicable, keep to that side of the fairway or mid-channel which lies on the starboard side of such ship.

Art. 22. Where by the above rules one of two ships is to keep out of the way, the other shall keep her course.

Art. 23. In obeying and construing these rules, due regard shall be had to all dangers of navigation, and to any special circumstances which may render a departure from the above rules necessary in order to avoid immediate danger.

*No Ship under any Circumstances to neglect Proper
Precautions.*

Art. 24. Nothing in these rules shall exonerate any ship, or the owner, master, or crew thereof, from the consequences of any neglect to carry lights or signals, or of any neglect to keep a proper look out, or of the neglect

of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

Reservation of Rules for Harbours and Inland Navigation.

Art. 25. Nothing in these rules shall interfere with the operation of a special rule, duly made by local authority, relative to the navigation of any harbour, river, or inland navigation.

Special Lights for Squadrons and Convoys.

Art. 26. Nothing in these rules shall interfere with the operation of any special rules made by the Government of any nation with respect to additional station and signal lights for two or more ships of war, or for ships sailing under convoy.

Art. 27. When a ship is in distress, and requires assistance from other ships, or from the shore, the following shall be the signals to be used or displayed by her, either together or separately; that is to say:—

In the daytime—

- (1) A gun fired at intervals of about a minute;
- (2) The international code signal of distress indicated by N.C.;
- (3) The distant signal, consisting of a square flag, having either above or below it a ball, or anything resembling a ball.

At night—

- (1) A gun fired at intervals of about a minute;
- (2) Flames on the ship (as from a burning tar barrel, oil barrel, &c.);
- (3) Rockets or shells, throwing stars of any colour or description, fired one at a time, at short intervals.

APPENDIX V.

RULES FOR LIFE-SAVING APPLIANCES.

RULES

Made by the Board of Trade under "The Merchant Shipping (Life-Saving Appliances) Act, 1888" (51 & 52 Vict. c. 24), to come into effect on the 1st day of June, 1894 (*a*).

At the Council Chamber, Whitehall, this 9th day of March, 1894. Present: The Right Honourable A. J. Mundella, M.P., &c.

In pursuance of the provisions of the Merchant Shipping (Life-Saving Appliances) Act, 1888, the Board of Trade do hereby make the annexed Rules relating to Life-Saving Appliances, in substitution of any Rules heretofore made under the said Act, and do hereby direct that these Rules shall come into effect on the 1st day of June, 1894.

(Signed) A. J. MUNDELLA.

MERCHANT SHIPPING (LIFE-SAVING AP-
PLIANCES) ACT, 1888.

For the purposes of these Rules, British ships shall be arranged into the following classes:—

Division (A).

Class 1: Steamships carrying emigrant passengers subject to all the provisions of the "Passengers Acts" (*b*).

(*a*) Made under sections reproduced in § 427 of this Act, and continued in force by § 745, s. 1.

see § 268, s. 3, and §§ 289, *et seq.* See definition of such ships as "emigrant ships;" § 268, s. 1.

(*b*) Now "steerage passengers;"

Class 2: Foreign-going steamships having passenger certificates under the "Merchant Shipping Acts" (c).

Class 3: Steamships having passenger certificates under the "Merchant Shipping Acts" (c) authorizing them to carry passengers anywhere within the home-trade limits; that is to say, between places in the United Kingdom, or between the United Kingdom and ports in Europe between the River Elbe and Brest.

Class 4: Foreign-going steamships not certified to carry passengers.

Division (B).

Class 1: Sailing ships carrying emigrant passengers subject to all the provisions of the "Passengers Acts" (d).

Class 2: Foreign-going sailing ships carrying passengers, but not subject to all the provisions of the "Passengers Acts" (e).

Class 3: Foreign-going sailing ships not carrying passengers.

Class 4: Sailing ships carrying passengers anywhere within the home-trade limits (f).

Division (C).

Class 1: Steamships not certified to carry passengers plying anywhere within the home-trade limits (f).

Class 2: Sailing ships in the same trades not carrying passengers.

Division (D).

Class 1: Steamships having passenger certificates authorizing them to carry passengers within certain specified limits of the home trade; that is to say, on short specified passages along the coasts of the United Kingdom, or between Great Britain and Ireland, or between Great Britain or Ireland and the Isle of Man.

(c) §§ 267, 271-288.

(d) Now "steerage passengers;" see § 268, s. 3, and §§ 289, *et seq.* See definition of such ships as "emigrant ships;" § 268, s. 1.

(e) Because not within the definition of "emigrant ship" in § 268, s. 1.

(f) § 742.

Class 2: Steamships carrying passengers in estuaries or mouths of rivers, or on short excursions or pleasure trips to sea.

Class 3: Steamships not certified to carry passengers, but employed solely in the coasting trade.

Class 4: Sailing ships not carrying passengers, but employed solely in the coasting trade.

Class 5: Steam fish carriers, tug boats, and steam lighters which proceed to sea.

Class 6: Steam launches proceeding for short distances to sea.

Division (E).

Class 1: Steamships carrying passengers on rivers, lakes, or land-locked inland waters, but not going to sea or into rough waters.

Class 2: Tug boats and steam lighters which do not proceed to sea.

Class 3: Hulks, dredgers, steam hoppers, &c., which proceed to sea and which do not proceed to sea.

GENERAL RULES.

Appendix.

DIVISION (A).—CLASS 1.

Rules for Steamships carrying Emigrant Passengers subject to all the Provisions of the "Passengers Acts" (f).

(a.) Ships of Division (A), Class 1, shall carry boats placed under davits, fit and ready for use, and having proper appliances for getting them into the water, in number and capacity as prescribed by the Table in the Appendix to these Rules; such boats shall be equipped in the manner required by and shall be of the description defined in the General Rules appended hereto.

(b.) Masters or owners of ships of this class claiming to carry fewer boats under davits than are given in the Table must declare before the collector or other officers of Customs, at the time of clearance, that the boats actually placed

(f) See note (b), p. 632.

board, allowing 10 (ten) cubic feet of boat capacity for each adult person, or "statute adult" (g).

(c.) Not less than half the number of boats placed under davits having at least half the cubic capacity required by the Tables, shall be boats of Section (A) or Section (B). The remaining boats may also be of such description, or may, in the option of the shipowner, conform to Section (C) or Section (D), provided that not more than two boats shall be of Section (D).

(d.) If the boats placed under davits in accordance with the Table do not furnish sufficient accommodation for all persons on board, then additional wood, metal, collapsible, or other boats of approved description (whether placed under davits or otherwise), or approved life-rafts shall be carried. One of these boats may be a steam launch; but in that case the space occupied by the engines and boilers is not to be included in the estimated cubic capacity of the boat.

Subject to the provisions contained in paragraph (f.) of these Rules, such additional boats or rafts shall be of at least such carrying capacity that they and the boats required to be placed under davits by the Table provide together in the aggregate, in vessels of 5000 tons gross and upwards, three-fourths, and in vessels of less than 5000 tons gross, one-half, more than the minimum cubic contents required by Column 3 of that Table. For this purpose 3 cubic feet of air-case in the life-raft is to be estimated as 10 cubic feet of internal capacity. Provided always that the rafts will accommodate all the persons for which they are to be certified under the Rules, and also have 3 cubic feet of air-case for each person.

All such additional boats or rafts shall be placed as conveniently for being available as the ship's arrangements admit of, having regard to the avoidance of undue encumbrance of the ship's deck, and to the safety of the ship for her voyage.

(e.) In addition to the life-saving appliances before mentioned, ships of this class shall carry not less than

(g) § 268, s. 2.

one approved life-buoy for every boat placed under davits. They shall also carry approved life-belts or other similar approved articles of equal buoyancy suitable for being worn on the person, so that there may be at least one for each person on board the ship.

(f.) Provided nevertheless that no ship of this class shall be required to carry more boats or rafts than will furnish sufficient accommodation for all persons on board.

DIVISION (A).—CLASS 2.

Rules for Foreign-going Steamships having Passenger Certificates under the "Merchant Shipping Acts" (h).

Ships of this class shall be subject to the same requirements as those in Division (A), Class 1.

DIVISION (A).—CLASS 3.

Rules for Steamships having Passenger Certificates under the "Merchant Shipping Acts" (h) authorizing them to carry Passengers anywhere within the Home-Trade Limits (i); that is to say, between places in the United Kingdom, or between the United Kingdom and Ports in Europe between the River Elbe and Brest.

(a.) Ships of this class shall carry boats placed under davits in accordance with the Table.

(b.) Masters or owners of ships of this class claiming to carry fewer boats under davits than are given in the Table must declare before the collector or other officer of Customs that the boats actually placed under davits are sufficient to accommodate all persons on board, allowing 10 (ten) cubic feet of boat capacity for each adult person, or "statute adult" (k).

(c.) Not less than half the number of boats placed under davits shall be boats of Section (A) or Section (B). The remaining boats may also be of such description, or may, in the option of the shipowner, conform to Section (C) or Section (D), provided that not more than two boats shall be of Section (D).

(h) "Passenger steamer;" defined,
§ 742.

(i) § 742.
(k) § 268, s. 2.

this requirement do not furnish sufficient accommodation for all persons on board, then additional wood, metal, collapsible, or other boats of approved description (whether placed under davits or otherwise), or approved life-rafts, or approved buoyant deck seats, or other approved buoyant deck fittings, shall be carried of at least such cubical capacity that they and the boats required to be placed under davits by the Table provide together in the aggregate one-half more than the minimum cubic contents provided by Column 3 of that Table. For this purpose 3 cubic feet of air-case in the life-raft is to be estimated as 10 cubic feet of internal capacity. Provided always that the rafts will accommodate all the persons for which they are to be certified under the Rules, and also have 3 cubic feet of air-case for each person.

(e.) Ships of this class shall carry not less than six approved life-buoys.

(f.) They shall also carry, in addition to the boats and appliances required above, approved life-belts or other similar approved articles of equal buoyancy suitable for being worn on the person, so that there may be at least one for each person on board the ship.

(g.) Provided nevertheless that no ship of this class shall be required to carry more boats, rafts, and other buoyant deck fittings than will furnish sufficient accommodation for all persons on board.

DIVISION (A).—CLASS 4.

Rules for Foreign-going Steamships not certified to carry Passengers.

(a.) Ships of this class shall carry, on each side, at least so many and such boats of wood or metal placed under davits (of which one on one side shall be a boat of Section (A) or Section (B), and one on the other side shall be a boat of Section (A), or Section (B), or Section (C)), that the boats on each side of the ship shall be sufficient to accommodate all persons on board.

(b.) They shall carry approved life-belts, so that there may be one for each person carried on board the ship.

(c.) They shall carry not less than six approved life-buoys.

In the case of small steamships a discretion may be exercised by the Board of Trade to modify the requirements as to boats.

DIVISION (B).—CLASS 1.

Rules for Sailing Ships carrying Emigrant Passengers (l) subject to all the Provisions of the "Passengers Acts."

(a.) Ships of Division (B), Class 1, shall carry boats in accordance with the Table, and such boats shall be as far as practicable placed under davits, with proper appliances for getting them into the water. All boats not placed under davits are to be so carried that they can be readily got into the water.

(b.) Not less than half the number of boats placed under davits having at least half the cubic capacity required by the Tables, shall be boats of Section (A) or Section (B). The remaining boats may also be of such description, or may, in the option of the shipowner, conform to Section (C) or Section (D), provided that not more than two boats shall be of Section (D).

(c.) If the boats placed under davits in accordance with the Table do not furnish sufficient accommodation for all persons on board, then additional wood, metal, collapsible, or other boats of approved description (whether placed under davits or otherwise), or approved life-rafts shall be carried. One of these boats may be a steam launch; but in that case the space occupied by the engines and boilers is not to be included in the estimated cubic capacity of the boat.

Subject to the provisions contained in paragraph (e.) of these rules, such additional boats or rafts shall be of at least such carrying capacity that they and the boats required to be placed under davits by the Table, provide

(l) Definition of "emigrant ship;" § 268, s. 1.

minimum cubic contents required by Column 3 of that Table. For this purpose 3 cubic feet of air-case in the life-raft is to be estimated as 10 cubic feet of internal capacity. Provided always that the raft will accommodate all the persons for which they are to be certified under the Rules, and also have 3 cubic feet of air-case for each person.

All such additional boats or rafts shall be placed as conveniently for being available as the ship's arrangements admit of, having regard to the avoidance of undue encumbrance of the ship's deck, and to the safety of the ship for her voyage.

(d.) In addition to the life-saving appliances before mentioned, ships of this class shall carry not less than one approved life-buoy for every boat required by the rules to be placed under davits. They shall also carry approved life-belts or other similar approved articles of equal buoyancy suitable for being worn on the person, so that there may be at least one for each person on board the ship.

(e.) Provided nevertheless that no ship of this class shall be required to carry more boats or rafts than will furnish sufficient accommodation for all persons on board.

DIVISION (B).—CLASS 2.

Rules for Foreign-going Sailing Ships carrying Passengers, but not subject to all the Provisions of the "Passengers Acts" (m).

Ships of this class shall be subject to the same requirements as those in Division (B); Class 1.

DIVISION (B).—CLASS 3.

Rules for Foreign-going Sailing Ships not carrying Passengers.

(a.) Ships of this class shall carry a boat or boats of Sections (A) or (B) sufficient for all the persons on board,

(m) As not coming within the definition of "emigrant ship;" § 268, s. 1.

and in addition thereto one good serviceable boat of Section (D). Such boats shall as far as practicable, having due regard to their safety at sea, be placed under davits, with proper appliances for getting them quickly into the water ; all boats not placed under davits are to be so carried that they can readily be got into the water to the satisfaction of the Board of Trade officer.

(b.) They shall carry approved life-belts as required for ships in Division (B), Class 1, and also one life-buoy for each boat of wood or metal.

In the case of small vessels a discretion may be exercised by the Board of Trade to modify the boat requirements.

DIVISION (B).—CLASS 4.

Sailing Ships carrying Passengers anywhere within the Home-Trade Limits.

(a.) Ships of this class shall carry a boat or boats of Sections (A) and (B) or (C) sufficient for all the persons on board. Such boats shall be as far as practicable under davits ; all boats not placed under davits are to be so carried that they can readily be got into the water to the satisfaction of the Board of Trade officer.

(b.) They shall carry four life-buoys and a life-belt or other similar approved article for each person on board.

DIVISION (C).—CLASS 1.

Rules for Steamships not certified to carry Passengers plying anywhere within the Home-Trade Limits (n).

(a.) Ships of this class shall carry, on each side, at least so many and such boats of wood or metal placed under davits (of which one on each side shall be a boat of Section (A), or of Section (B), or of Section (C)), that the boats on each side of the ship shall be sufficient to accommodate all persons on board. They shall have proper appliances for getting the boats into the water.

(b.) They shall also carry approved life-belts, so that

(n) Defined, § 742.

there may be at least one for each person carried on board the ship.

(c.) They shall also carry not less than four approved life-buoys.

DIVISION (C).—CLASS 2.

Rules for Sailing Ships in the same Trades not carrying Passengers.

(a.) Ships of this class shall carry a boat or boats of wood or metal, at least sufficient for all persons on board, and in such a position as to be readily got into the water. Each boat shall be provided with one gallon of vegetable or animal oil, and a vessel of an approved pattern for distributing it in the water in rough weather.

(b.) Ships of this class shall also carry an approved life-belt for each person on board.

(c.) They shall also carry at least two approved life-buoys.

DIVISION (D).—CLASS 1.

Rules for Steamships having Passenger Certificates authorizing them to carry Passengers within certain specified Limits of the Home Trade; that is to say, on short specified Passages along the Coasts of the United Kingdom, or between Great Britain and Ireland, or between Great Britain or Ireland and the Isle of Man.

(a.) Ships of this class shall, according to their tonnage, carry boats placed under davits, as required by the Table.

(b.) Masters or owners of ships of this class claiming to carry fewer boats under davits than are given in the Table must declare before the collector or other officer of Customs that the boats actually placed under davits are sufficient to accommodate all persons on board, allowing 10 (ten) cubic feet of boat capacity for each adult person, or "statute adult" (c). Not less than half the number of boats placed under davits having at least half the cubic capacity

(c) § 263, s. 2.

required by the Tables, shall be of boats Section (A) or Section (B). The remaining boats may also be of such description, or may, in the option of the shipowners, conform to Section (C) or Section (D), provided that not more than two boats shall be of Section (D).

(c.) If the boats placed under davits in accordance with the above requirements do not furnish sufficient accommodation for all persons on board, then additional wood, metal, collapsible, or other boats of approved description (whether placed under davits or otherwise), or approved life-rafts, or approved buoyant deck seats, or other approved buoyant deck fittings, shall be carried of at least such cubical capacity that they and the boats required to be placed under davits by the Table provide together in the aggregate one-half more than the minimum cubic contents provided by Column 8 of the Table. For this purpose 8 cubic feet of air-case in the life-raft is to be estimated as 10 cubic feet of internal capacity; provided always that the rafts will accommodate the persons for which they are certified under the Rules, and also have 8 cubic feet of air-case for each person.

(d.) Ships of this class shall also carry approved life-belts or other similar approved articles of equal buoyancy suitable for being worn on the person, so that there may be at least one for each person on board the ship.

(e.) At least one approved life-buoy shall also be provided for each boat of wood or metal carried by the ship, but in no case shall less than six approved life-buoys be provided.

(f.) Provided nevertheless that no ship of this class shall be required to carry more boats, rafts, and other buoyant deck fittings than will furnish sufficient accommodation for all persons on board.

DIVISION (D).—CLASS 2.

Steamships carrying passengers in estuaries or mouths of rivers, or on short excursions or pleasure trips to sea :—

(a.) Ships of this class shall carry at least two boats of Section (A), or Section (B), or Section (C), placed under davits, and with proper appliances for getting them into the water.

(b.) They shall also carry other boats, approved buoyant apparatus, and (or) approved life-belts sufficient (with the boats required by paragraph (a.)) to keep afloat all the persons on board the ship.

(c.) At least four approved life-buoys shall be carried.

DIVISION (D).—CLASS 3.

Steamships not certified to carry passengers, and employed solely in the coasting trade :—

(a.) Ships of this class shall carry one boat of Section (A), (B), or (C), so fitted that it can be readily put out on either side of the ship, and amply sufficient to carry all the persons on board.

(b.) They shall carry two approved life-buoys.

(c.) They shall carry life-belts, so that there may be one for each person on board the ship.

DIVISION (D).—CLASS 4.

Sailing ships not carrying passengers, and employed solely in the coasting trade :—

(a.) Ships of this class shall carry one boat so fitted that it can be readily put out on either side of the ship, and amply sufficient to carry all the persons on board.

(b.) They shall carry two approved life-buoys.

(c.) They shall carry life-belts, so that there may be one for each person on board the ship.

DIVISION (D).—CLASS 5.

Steam fish carriers, tug boats, and steam lighters which proceed to sea :—

(a.) Ships of this class shall carry one boat of Sections (A), (B), or (C), so fitted that it can be readily put out on

either side of the ship, and amply sufficient to carry all the persons on board.

(b.) They shall carry two approved life-buoys.

(c.) They shall carry life-belts, so that there may be one for each person on board the ship.

DIVISION (D).—CLASS 6.

Steam launches proceeding for short distances to sea :—

(a.) Steam launches are themselves little more than boats, and therefore shall not be required to carry boats.

(b.) They shall carry two approved life-buoys.

(c.) They shall carry life-belts, so that there may be one for each person on board.

DIVISION (E).—CLASS 1.

Rules for Steamships carrying Passengers on Rivers, Lakes, or Land-locked Inland Waters, but not going to Sea, or into Rough Waters.

(a.) Ships of this class shall carry one boat in such a position that it can readily be got into the water. They shall also carry approved buoyant apparatus, or approved life-belts and approved life-buoys at least sufficient, together with the boat, to keep afloat all persons carried on board.

(b.) At least four approved life-buoys shall be carried.

NOTE.—A discretion may be exercised by the Board of Trade to relieve steam launches, steamers plying in narrow waters, and ferry boats, from the operation of the whole or part of Rule (a.) of this Class.

DIVISION (E).—CLASS 2.

Tug boats and steam lighters which do not proceed to sea :—

(a.) These vessels shall carry one boat of any Section sufficient to carry all the persons on board.

(c.) They shall carry approved life-belts, so that there may be one for each person on board.

DIVISION (E).—CLASS 3.

Hulks, dredgers, steam hoppers, &c.

If these vessels do not proceed to sea from one port to another, they shall carry the same boats and appliances as provided for in Class 2.

If they proceed to sea from one port to another they shall carry in addition one boat of Sections (A), (B), or (C) sufficient to carry all the persons on board, and with proper appliances to enable it to be put out readily on either side of the ship.

GENERAL RULES.

(1.) *Boats*.—All boats shall be constructed and properly equipped as provided by these Rules, and all boats and other life-saving appliances are to be kept ready for use to the satisfaction of the Board of Trade. Internal buoyancy apparatus may be constructed of wood, or of copper or yellow metal of not less than 18 ozs. to the superficial foot, or of other durable material.

Section (A).—A boat of this section shall be a life-boat, of whale-boat form, properly constructed of wood or metal, having for every 10 cubic feet of her capacity computed as in Rule (2), at least 1 cubic foot of strong and serviceable inclosed air-tight compartments, so constructed that water cannot find its way into them. In the case of metal boats an addition will have to be made to the cubic capacity of the air-tight compartments, so as to give them buoyancy equal to that of the wooden boat.

Section (B).—A boat of this section shall be a life-boat, of whale-boat form, properly constructed of wood or metal, having inside and outside buoyancy apparatus together equal in efficiency to the buoyancy apparatus provided for a boat of Section (A). At least one-half of

the buoyancy apparatus must be attached to the outside of the boat.

Section (C).—A boat of this section shall be a life-boat, properly constructed of wood or metal, having some buoyancy apparatus attached to the inside and (or) outside of the boat equal in efficiency to one-half of the buoyancy apparatus provided for a boat of Section (A) or Section (B). At least one-half of the buoyancy apparatus must be attached to the outside of the boat.

Section (D).—A boat of this section shall be a properly constructed boat of wood or metal.

Section (E).—A boat of this section shall be a boat of approved construction, form, and material, and may be collapsible.

(2.) *Cubic Capacity*.—The cubic capacity of a boat shall be deemed to be her cubic capacity, ascertained (as in measuring ships for tonnage capacity) by Stirling's rule; but as the application of that rule entails much labour, the following simple plan, which is approximately accurate, may be adopted for general purposes, and when no question requiring absolute correct adjustment is raised :—

Measure the length and breadth outside and the depth inside. Multiply them together and by $\cdot 6$; the product is the capacity of the boat in cubic feet. Thus a boat 28 ft. long, 8 ft. 6 in. broad, and 3 ft. 6 in. deep, will be regarded as having a capacity of $28 \times 8\cdot 5 \times 3\cdot 5 \times \cdot 6 = 492\cdot 8$, or 500 cubic feet. If the oars are pulled in rowlocks, the bottom of the rowlock is to be considered the gunwale of the boat for ascertaining her depth.

(3.) *Number of Persons for Boats*.—The number of persons a boat of Section (A) shall be deemed fit to carry shall be the number of cubic feet ascertained as in Rule (2) divided by 10.

The number of persons a boat of Section (B), Section (C), Section (D), or Section (E) shall be deemed fit to carry shall be the number of cubic feet ascertained as in Rule (2) divided by 8. The space in the boat shall be sufficient for the seating of the persons carried in it, and for the proper use of the oars.

getting a boat into the water must fulfil the following conditions:—Means are to be provided for speedily, but not necessarily simultaneously or automatically, detaching the boats from the lower blocks of the davit tackles; the boats placed under davits are to be attached to the davit tackles and kept ready for service; the davits are to be strong enough and so spaced that the boats can be swung out with facility; the points of attachment of the boats to the davits are to be sufficiently away from the ends of the boats to ensure their being easily swung clear of the davits; the boats' chocks are to be such as can be expeditiously removed; the davits, falls, blocks, eyebolts, rings, and the whole of the tackling are to be of sufficient strength; the boats' falls are to be long enough to lower the boat into the water with safety when the vessel is light. The life-lines shall be fitted to the davits and be long enough to reach the water when the vessel is light; and hooks are not to be attached to the lower tackle blocks.

(5.) *Equipments for Collapsible or other Boats and for Life-rafts.*—In order to be properly equipped, each boat shall be provided as follows:—

- (a.) With the full single-banked complement of oars, and two spare oars.
- (b.) With two plugs for each plug-hole, attached with lanyards or chains, and one set and a half of thole-pins or crutches, attached to the boat by sound lanyards.
- (c.) With a sea-anchor, a baler, a rudder, and a tiller, or yoke and yoke-lines, a painter of sufficient length, and a boat-hook. The rudder and baler to be attached to the boat by sufficiently long lanyards, and kept ready for use. In boats where there may be a difficulty in fitting a rudder a steering oar may be provided instead.
- (d.) A vessel to be kept filled with fresh water shall be provided for each boat.
- (e.) Life-rafts shall be fully provided with a suitable approved equipment.

(6.) *Additional Equipments for Boats of Section (A) and Section (B).*—In order to be properly equipped, each boat of Sections (A) and (B), in addition to being provided with all the requisites laid down in Rule (5), shall be equipped as follows, but not more than four boats in any one ship require to have this outfit, and where boats of Sections (A) or (B) are carried in lieu of boats of Sections (C) or (D), this additional outfit need not be insisted on :—

- (a.) With two hatchets or tomahawks, one to be kept in each end of the boat, and to be attached to the boat by a lanyard.
- (b.) With a mast or masts, and with at least one good sail, and proper gear for each.
- (c.) With a line becketted round the outside of the boat and securely made fast.
- (d.) With an efficient compass.
- (e.) With one gallon of vegetable or animal oil, and a vessel of an approved pattern for distributing it in the water in rough weather.
- (f.) With a lantern trimmed, with oil in its receiver sufficient to burn eight hours.

(7.) *Number of Persons for Life-rafts.*—The number of persons that any approved life-raft for use at sea shall be deemed to be capable of carrying shall be determined with reference to each separate pattern approved by the Board of Trade ; provided always, that for every person so carried there shall be at least 3 cubic feet of strong and serviceable inclosed air-tight compartments, constructed so that water cannot find its way into them. Any approved life-raft of other construction may be used, provided that it has equivalent buoyancy to that hereinbefore described. Every such approved life-raft shall be marked in such a way as to plainly indicate the number of adult persons it can carry.

(8.) *Buoyant Apparatus.*—Approved buoyant apparatus shall be deemed sufficient, so far as buoyancy is concerned, for a number of persons, to be ascertained by dividing the number of pounds of iron which it is capable of supporting in fresh water by 32. Such buoyant apparatus

shall not require to be inflated before use, shall be of approved construction, and marked in such a way as plainly to indicate the number of persons for whom it is sufficient.

(9.) *Life-belts*.—An approved life-belt shall mean a belt which does not require to be inflated before use, and which is capable at least of floating in the water for 24 hours with 15 lbs. of iron suspended from it. Life-belts are to be cut out 2 inches under the arm-pits, and fitted so as to remain securely in their place when put on.

(10.) *Life-buoys*.—An approved life-buoy shall mean either—

(a.) A life-buoy built of solid cork, capable of floating in the water for at least 24 hours with 32 lbs. of iron suspended from it; or

(b.) A strong life-buoy of any other approved pattern or material, provided that it is capable of floating in the water for at least 24 hours with 32 lbs. of iron suspended from it, and provided also that it is not stuffed with rushes, cork shavings, or other shavings, or loose granulated cork, or other loose material, and does not require inflation before use.

All life-buoys shall be fitted with beackets securely seized, and not less than two of them shall be fitted with life-lines 15 fathoms in length.

(11.) *Position of Life-buoys and Life-belts*.—All life-buoys and life-belts shall be so placed as to be readily accessible to all persons on board, and so that their position may be known to those for whom they are intended.

(12.) *Water-tight Compartments*.—When ships of any class are divided into efficient water-tight compartments to the satisfaction of the Board of Trade, they shall only be required to carry additional boats, rafts, and buoyant apparatus of one-half of the capacity required by these rules, but the exemption shall not extend to life-jackets or similar approved articles of equal buoyancy suitable to be worn on the person.

APPENDIX.

The Table referred to in the foregoing Rules, showing the Minimum Number of Boats to be placed under Davits and their Minimum Cubic Contents.

Gross tonnage.	Minimum number of boats to be placed under davits.	Total minimum cubic contents of boats to be placed under davits. L. X B. X D. X '6.	Gross tonnage.	Minimum number of boats to be placed under davits.	Total minimum cubic contents of boats to be placed under davits. L. X B. X D. X '6.
1.	2.	3.	1.	2.	3.
10,000 and upwards	16	5500	3500 and under 3750	8	2600
9000 and upwards	14	5250	3250 " 3500	8	2500
8500 and under 9000	14	5100	3000 " 3250	8	2400
8000 "	14	5000	2750 " 3000	6	2100
7750 "	12	4700	2500 " 2750	6	2050
7500 "	12	4600	2250 " 2500	6	2000
7250 "	12	4500	2000 " 2250	6	1900
7000 "	12	4400	1750 " 2000	6	1800
6750 "	12	4300	1500 " 1750	6	1700
6500 "	12	4200	1250 " 1500	6	1500
6250 "	12	4100	1000 " 1250	4	1200
6000 "	12	4000	900 " 1000	4	1000
5750 "	10	3700	800 " 900	4	900
5500 "	10	3600	700 " 800	4	800
5250 "	10	3500	600 " 700	3	700
5000 "	10	3400	500 " 600	3	600
4750 "	10	3300	400 " 500	2	500
4500 "	8	2900	300 " 400	2	400
4250 "	8	2900	200 " 300	2	350
4000 "	8	2800	100 " 200	2	300
3750 "	8	2700			

Note.—Where in ships already fitted the required cubic contents of boats placed under davits is provided, although by a smaller number of boats than the minimum required by this Table, such ships shall be regarded as complying with the rules as to boats to be carried under davits.

In the case of vessels under 200 tons gross tonnage, the capacity of any boat to be supplied should not be less than 125 cubic feet. If, however, in any case this rule be found to be impracticable, a discretion may then be exercised by the Board of Trade.

In cases where a small vessel is unable to carry more than one boat, a discretion may be exercised by the Board of Trade, but whenever one boat only is carried there must be proper provision to enable it to be placed readily in the water on either side of the ship.

APPENDIX VI.

MERCHANT SHIPPING ACT

LOAD-LINE.

REGULATIONS

Made by the Board of Trade under
Shipping Act, 1890" (53 Vict. c. 1)
effect on and after the 1st December,

Board of Trade, } HENRY G. C.
October, 1892. }

At the Council Chamber, Whitehall,
October, 1892. Present: The Right Hon.
Mundella, M.P.

In pursuance of the provisions of the M.
Act, 1890, the Board of Trade do hereby make
regulations, and do hereby direct that they
shall come into effect on and after the
next.

(Signed) A. J. M

The Merchant Shipping Acts, 1876

REGULATIONS AS TO LOAD-LINE MARKS,
DRAUGHTS OF WATER, AND FREE

1. The Regulations made by the Board
the Merchant Shipping Act, 1890, dated

(a) Made under sections repro- continued in fo
duced in § 443, s. 2, of this Act, and

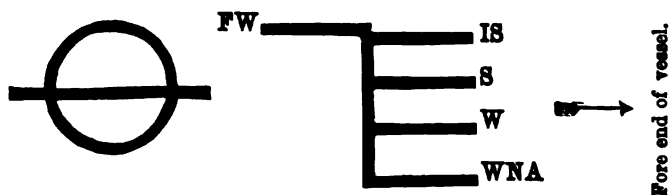
August, 1890, shall be and are hereby repealed, and in lieu thereof the following regulations shall have and take effect.

2. The lines to be used in order to indicate the maximum load-line under different circumstances and at different seasons shall be nine inches in length and one inch in thickness, and the maximum load-line shall be the upper edge of each of such lines.

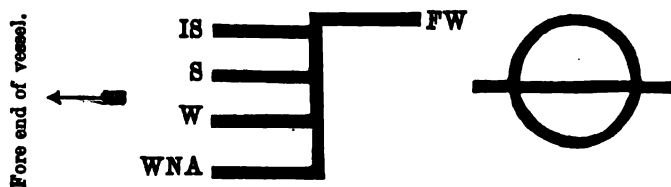
3. The said lines shall be horizontal lines marked on both sides of the ship, extending from and at right angles to a vertical line marked 21 inches forward of the centre of the disc. The maximum load-line in fresh water shall be marked abaft such vertical line, and the maximum load-lines in salt water shall be marked forward of such vertical line, as shown in the following diagrams:—

FOR STEAMER.

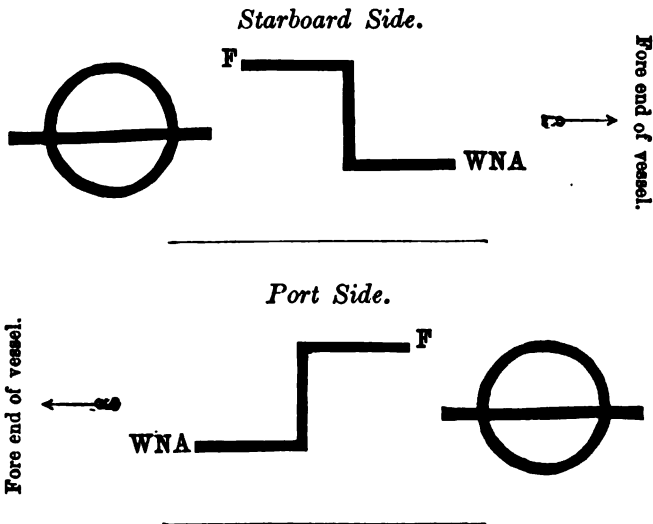
Starboard Side.



Port Side.



FOR SAILING VESSEL.



The arrow () points in the direction of the vessel's head.

The provisions of the Merchant Shipping Act, 1894 shall have effect as if any such maximum load-line drawn through the centre of the disc.

4. Such maximum load-lines shall be as follows, viz

For fresh water,

„ Indian summer,

„ summer,

„ winter,

„ winter, North Atlantic,

and shall be distinguished by initial letters con-
marked opposite such horizontal lines as afore-
initial letters being as follows :—

F.W.—Fresh water.

I.S.—Indian summer.

S.—Summer.

W.—Winter.

W.N.A.—Winter, North Atl

The upper edge of the horizontal line passing through the centre of the disc shall always indicate the summer free-board in salt water.

5. Steamships shall be marked with such of the horizontal lines as aforesaid as are applicable to the nature of their employment, and sailing ships shall be marked with such of the above-mentioned lines, in addition to the summer load-line, as indicate the maximum load-line for fresh water and for North Atlantic winter, but sailing ships engaged solely in the coasting trade shall only be marked, in addition to the summer load-line, with the line indicating the maximum load-line in fresh water.

6. The said disc, and the lines or marks to be used in connection therewith, shall be painted white or yellow on a dark ground, or black on a light ground, and the position of the disc and of each of the lines shall in the case of iron and steel vessels be permanently marked by centre punch marks, and shall in the case of wooden vessels be sunk for their breadths into the planking a depth of not less than one quarter of an inch.

7. Application for a certificate of approval of the position of the disc or any alteration thereof shall be made by one of the registered owners of the ship or the builder of the ship. Every application shall be made in the form marked L.L. 1 in the schedule hereto.

8. With respect to certificates of approval, and their duration, the following rules shall prevail :—

(a.) As regards iron and steel ships, whether classed or unclassed, and classed wooden ships, the certificate shall cease to have effect if and so soon as the class of the ship (if classed) is either changed or withdrawn, or if and so soon as any deterioration has taken place in the structural condition of the ship, whether classed or unclassed. Such certificate shall be in one of the forms L.L. 2 or L.L. 3 in the schedule hereto, as the case may be.

(b.) As regards unclassed wooden ships which have been opened out for survey, the certificate shall be granted for a fixed time varying with the age and condition

of the ship at the expiration of which it is to have effect. Such certificate shall be in L.L. 3A in the schedule hereto.

(c.) As regards unclassified wooden ships which have been opened out for survey, no limit of time shall be imposed in the certificate, which shall be in L.L. 3B in the schedule hereto.

9. Every certificate of approval shall be in duplicate; one part shall be delivered to the owner and the other part shall be forthwith sent to the Secretary, Marine Department, Board of Trade.

10. On a certificate of approval ceasing to be valid, an application shall at once be made by the managing owner of the ship for the granting of a new certificate of approval, and the old certificate shall be delivered up to the Board of Trade, who shall destroy the same.

11. The master of every British ship shall, when the ship leaves any dock, wharf, port, or harbour in the United Kingdom, Her Majesty's Possessions, or in any colony or country, for the purpose of proceeding to sea, enter in his official log all the particulars stated in the certificate issued as aforesaid if not previously entered.

12. The managing owner or master shall also cause to be on the delivery to him or his agent of any such certificate as aforesaid, cause the same to be framed and placed in some conspicuous part of the ship so as to be visible to all persons on board the same, and shall cause it to be continued so put up so long as such certificate remains valid and such ship is in use.

13. For the purpose of these regulations, the term "amidships" shall mean the middle of the length of the load water line as measured from the fore side of the keel to the aft side of the stern post.

Dated this 24th day of October, 1892.

SCHEDULE.

FORM L.L. 1.

APPLICATION FOR CERTIFICATE OF APPROVAL of the position of
a load-line disc under the provisions of the Merchant
Shipping Acts, 1876 and 1890.

Application is hereby made to _____ for a
certificate of approval of the position [or alteration of the
position] of a load-line disc on the "_____",
Official No. _____. [The vessel is classed in _____]
[is not classed].

The vessel is [is not] intended to be employed in the
Indian Ocean.

The vessel is [is not] intended to be employed in the
North Atlantic trade.

No previous application has been made either by the
builder or the owner for a certificate of approval of the
position [or alteration of the position] of a load-line disc
on this vessel to this or any other authority appointed in
accordance with section 2 of the Merchant Shipping Act,
1890 [except in respect of a previous certificate dated
_____, which has expired (or ceased to have
effect)].

Dated this _____ day of _____ 18 _____.
Registered Owner.
[Builder.]

FORM L.L. 2.

CERTIFICATE OF APPROVAL OF THE POSITION [Alteration of the
Position] of the disc on the steamship "_____",
Official No. _____, in pursuance of the Merchant
Shipping Acts, 1876 and 1890.

The [_____] _____
[I, _____, an officer of the Board of Trade]
have approved, on behalf of the Board of Trade, the position
[or alteration of the position] of the disc on the steamship

" , Official No. , and hereby certify that the centre of such disc is placed at feet inches below the deck-line marked under the provisions of the Merchant Shipping Act, 1876.

This certificate is to remain in force only so long as the vessel remains in her present class, if classed, and no deterioration has taken place in her present structural condition, whether classed or unclassified.

Dated this day of 18 .

(Signed) .

POSITION OF LINES to be used in connection with the disc.

Maximum load-line in fresh water feet
inches above the centre of the disc.

Maximum load-line in Indian summer feet
inches above the centre of the disc.

Maximum load-line in summer the centre of the disc.

Maximum load-line in winter feet inches
below the centre of the disc.

Maximum load-line in North Atlantic winter
feet inches below the centre of the disc.

Note.—In accordance with regulations made by the Board of Trade the disc and lines must be permanently marked by centre punch marks or cutting, and the particulars given in this certificate are to be entered in the official log. The certificate must also be framed and put up in some conspicuous part of the ship.

If and so soon as the class of the ship, if classed, is either changed or withdrawn, or if and so soon as any deterioration takes place in the structural condition of the ship, whether classed or unclassified, this certificate will be cancelled, and must be delivered to the Board of Trade for that purpose, and the owner will then be entitled to apply either to the original load-line authority, or to any other load-line authority approved by the Board of Trade, for a new certificate.

FORM L.L. 3.

CERTIFICATE OF APPROVAL OF THE POSITION [Alteration of the Position] of the disc on the sailing ship " ,"

S.M.S.A.

2 U

Official No. _____, in pursuance of the Merchant Shipping Acts, 1876 and 1890.

The [_____]]
 [I, _____, an officer of the Board of Trade] have approved, on behalf of the Board of Trade, the position [or alteration of the position] of the disc on the sailing ship "_____" Official No. _____, and hereby certify that the centre of such disc is placed at _____ feet _____ inches below the _____ deck-line marked under the provisions of the Merchant Shipping Act, 1876.

This certificate is to remain in force only so long as the vessel remains in her present class, if classed, and no deterioration has taken place in her present structural condition, whether classed or unclassed.

Dated this _____ day of _____ 18 ____.
 (Signed) _____.

POSITION OF LINES to be used in connection with the disc.

Maximum load-line in fresh water, _____ feet
 _____ inches above the centre of the disc.

Maximum load-line in winter, North Atlantic,
 _____ feet _____ inches below the centre of the disc.

Note.—In accordance with the regulations made by the Board of Trade the disc and lines must be permanently marked by centre punch marks or cutting, and the particulars given in this certificate are to be entered in the official log. This certificate must also be framed and put up in some conspicuous part of the ship.

If and so soon as the class of the ship, if classed, is either changed or withdrawn, or if and so soon as any deterioration takes place in the structural condition of the ship, whether classed or unclassed, this certificate will be cancelled, and must be delivered to the Board of Trade for that purpose, and the owner will then be entitled to apply either to the original load-line authority, or to any other load-line authority approved by the Board of Trade, for a new certificate.

L.L. 3A.

CERTIFICATE OF APPROVAL OF THE POSITION [Alteration of the Position] of the disc on the sailing ship " ,"
 Official No. , in pursuance of the Merchant Shipping Acts, 1876 and 1890.

The [, an officer of the Board of Trade]
 [I, , an officer of the Board of Trade]
 have approved, on behalf of the Board of Trade, the position [or alteration of the position] of the disc on the sailing ship " ,"
 Official No. , and hereby certify that the centre of such disc is placed feet inches below the deck-line marked under the provisions of the Merchant Shipping Act, 1876.

This certificate is to remain in force until the day of , 18 , and no longer.

Dated this day of 18 .

(Signed)

POSITION OF LINES to be used in connection with the disc.

Maximum load-line in fresh water, feet
 inches above the centre of the disc.

Maximum load-line in winter, North Atlantic,
 feet inches below the centre of the disc.

Note.—In accordance with the regulations made by the Board of Trade the disc and lines must be permanently marked by centre punch marks or cutting, and the particulars given in this certificate are to be entered in the official log. The certificate must also be framed and put up in some conspicuous part of the ship.

From and after the said day of , 18 , this certificate will be cancelled, and must be delivered to the Board of Trade for that purpose, and the owner will then be entitled to apply either to the original load-line authority, or to any other load-line authority approved by the Board of Trade, for a new certificate.

L.L. 3B.

CERTIFICATE OF APPROVAL OF THE POSITION [Alteration of the Position] of the disc on the sailing ship " ,"

Official No. _____, in pursuance of the Merchant Shipping Acts, 1876 and 1890.

The [_____]
 [I, _____, an officer of the Board of Trade]
 have approved, on behalf of the Board of Trade, the position [or alteration of the position] of the disc on the sailing ship " _____," Official No. _____, and hereby certify that the centre of such disc is placed at _____ feet _____ inches below the _____ deck-line marked under the provisions of the Merchant Shipping Act, 1876.

Dated this _____ day of _____ 18 ____.
 (Signed) _____.

POSITION OF LINES to be used in connection with the disc.

Maximum load-line in fresh water, _____ feet
 _____ inches above the centre of the disc.

Maximum load-line in winter, North Atlantic,
 _____ feet _____ inches below the centre of the disc.

Note.—In accordance with the regulations made by the Board of Trade the disc and lines must be permanently marked by centre punch marks or cutting, and the particulars given in this certificate are to be entered in the official log. The certificate must also be framed and put up in some conspicuous part of the ship.

APPENDIX VII.

RULES

Made by the Board of Trade for the Inspection of Provisions and Water under "The Merchant Shipping Act, 1892" (55 & 56 Vict. c. 37), to come into operation on the 1st June, 1893 (*a*).

At the Council Chamber, Whitehall, this 11th day of March, 1893. Present: The Right Honourable Anthony J. Mundella, M.P., &c.

In pursuance of the provisions of the Merchant Shipping Act, 1892, the Board of Trade do hereby make the annexed Rules, and do hereby direct that these Rules shall come into operation on the 1st day of June, 1893.

(Signed) A. J. MUNDELLA,
President.

Rules for the Inspection of Provisions and Water, under the Merchant Shipping Act, 1892.

1. These rules apply to all ships trading or going from any port of the United Kingdom through the Suez Canal or round the Cape of Good Hope or Cape Horn. Applica-
tion of
rules.

2. The officer to conduct an inspection of ship's stores under the Merchant Shipping Act, 1892, shall be any officer appointed by the Board of Trade for this purpose. Prescribed
officer.

3. All the different varieties of stores provided or carried in the ship which are referred to in section 3 of the above-mentioned Act (*b*), as well as the supply of water, are subject to inspection. What
stores to
be in-
spected.

(*a*) Made under the section reproduced as § 206, s. 4 of this Act, and

continued in force by § 745, s. 1.

(*b*) Reproduced in § 206 of this Act.

Where new stores to be inspected. 4. New stores shall be inspected before shipment whenever practicable, or alongside the ship in which they are to be used ; but, if necessary, they may be inspected on board the ship, or they may in certain cases be inspected in some place provided or approved by the Board of Trade for that purpose, as may be decided by the inspector acting under the instructions of the Board of Trade.

All surplus stores to be inspected. 5. All surplus stores left over from a previous voyage are to be inspected, and the contents of all the casks of wet provisions amongst such surplus stores are to be turned out. Such stores are to be inspected on board or alongside the ship, or in such other place as may be provided or approved by the Board of Trade for that purpose, as may be decided by the inspector acting under the instructions of the Board of Trade.

Passed stores sent to another port. 6. Stores carried in the ship in which they are to be used from one port to another port in the United Kingdom, or sent from one port to a ship at another port, which have passed the Board of Trade inspector at the first port, as described in a form of advice (P.W. 8) signed by the inspector who examined them, need not be re-examined ; provided always that the official wire and seal remain intact, and that the inspector is satisfied that the packages have not been tampered with.

Notice for inspection when ship is at the port. 7. All notices for inspection of stores to take place at the port where the ship is lying must be made to the inspector of that port, or in such other manner as may from time to time be determined by the Board of Trade, by the owner or agent of the ship on the appropriate form (P.W. 1), which must be filled in and delivered to the inspector at least 48 hours prior to the time at which it is desired that the stores should be inspected.

Notice for inspection of stores sent coast-wise. 8. Notice for inspection of stores intended to be used on any voyage mentioned in the Act, but which it is proposed to carry to some other port in the United Kingdom from which the vessel is to take her final departure, or stores intended to be sent to a ship at some other port in the United Kingdom, may be made by the firm supplying such stores direct to the inspector at the port where such stores

may be. The notice must be given at least 48 hours previously on the form (P.W. 2) provided for the purpose.

9. Prior to the inspection, a complete list of all the stores must be supplied to the inspectors.

List of stores to be supplied.

10. Stores will be inspected at any time during daylight after 10 a.m. up to 5 p.m.

Time of inspection.

If it is found on the arrival of the inspector that the stores are not ready at the time named in the official notice, the inspection must be deferred.

11. The shipowner, master, or officers of a ship shall give the inspector every facility for inspecting the stores and water on board of such ship, and shall, if required, have all the stores contained in casks brought on deck for inspection.

Master and officers to give every facility for inspection.

12. Beef shall consist only of briskets, flanks, and plates of fine heavy grade, freshly cured, free from taint, and thoroughly sweet, packed in good sound casks, re-capped, and re-pickled with pickle of full strength, all to the satisfaction of the inspector.

Conditions as to beef.

13. Pork shall be of assorted pieces in fair proportion, of fine grade, freshly cured, free from taint, and thoroughly sweet, packed in good sound casks, re-capped, and re-pickled with pickle of full strength, all to the satisfaction of the inspector.

Conditions as to pork.

14. Preserved meats shall be of fine grade, but may be of any variety, and may be mixed with a fair proportion of vegetables, the whole to be properly preserved and packed in good strong tins, the tins being painted or otherwise protected from rust, all to the satisfaction of the inspector, who may open one or more of the tins of each kind should he deem it necessary.

Conditions as to preserved meats and vegetables.

15. Vegetables shall be fresh and sound, properly preserved, and in good strong tins, the tins being painted or otherwise protected from rust, all to the satisfaction of the inspector, who may open one or more of the tins of each kind should he deem it necessary.

Vegetables in tins.

16. Flour shall be of fine grade, milled from fully matured good sound wheat, containing a proper proportion of nutritious matter, to the satisfaction of the inspector.

Flour to be milled from fully matured sound wheat.

Require-
ments if
shipped in
barrels.

If shipped in barrels, the barrels must be new, properly made from suitable seasoned wood, thoroughly tight, and lined with suitable paper. The ends of the barrels to be coated with hot lime. Where tanks are used for the storage of flour on board, they must be thoroughly cleansed, limed with fresh lime, and dried before being re-filled, all to the satisfaction of the inspector.

Biscuits to
be made
of fully
matured
wheat
flour.

17. Biscuits to be thoroughly baked and dried, and made of fully matured wheat flour, containing a proper proportion of nutritious matter. Where tanks are used for the storage of biscuits on board, they must be thoroughly cleansed, limed with fresh lime, and dried before being re-filled, all to the satisfaction of the inspector.

Stores sent
on board.

18. An inspector may at any time proceed on board a ship to ascertain whether the stores or water have been duly inspected, and if he finds any stores or water on board the ship which have not been so inspected, he shall insist on inspecting the same, and if they are of a quality unfit for the use of the crew of such ship, he shall detain the ship under the provisions of the Act until such defects are remedied to his satisfaction.

Water
tanks
to be
cleansed
before
fresh
water
supplied.

19. The water left in the ship's tanks from the former voyage must all be completely emptied, and the tanks must be thoroughly cleansed and re-filled with good fresh water.

Stores
deficient
in quality
to be
landed.

20. All stores found by the inspector to be deficient in quality shall be landed.

Certificate
of inspection.

21. The inspector at the final port of departure in the United Kingdom, if after examination of the stores and water he is satisfied that he has seen all the stores intended for the particular voyage, and that they are of a quality fit for the use of the crew, or in the case of stores previously inspected at some other port, in accordance with Rule 6, if satisfied that the requirements of that rule have been complied with, shall grant a certificate in the prescribed form (P.W. 4), but this certificate shall not be granted except at the final port of departure in the United Kingdom.

APPENDIX VIII.

GENERAL RULES FOR FORMAL INVESTIGATIONS INTO SHIPPING CASUALTIES, 1895 (a).

Short Title and Commencement.

1. These Rules may be cited as the Shipping Casualties Rules, 1895. They shall come into operation on the 1st day of April, 1895, and shall, so far as practicable, and unless otherwise expressly provided, apply to all matters arising in any pending investigation, and also to all investigations instituted on or after the said day.

Interpretation.

2. In these Rules, unless the context or subject matter otherwise requires—

“Investigation” means a formal investigation into a shipping casualty :

“Judge” means the Wreck Commissioner, sheriff, sheriff-substitute, stipendiary magistrate, justices, or other authority empowered to hold an investigation :

“List of assessors” means the existing list and classification of assessors for shipping casualties approved by the Secretary of State set out in Part II. of the Appendix to these Rules, or the list and classification of assessors for the time being approved by the Secretary of State :

“Court of Appeal” means the court by which appeals from decisions given in investigations or inquiries into shipping casualties are for the time being heard, under the Merchant Shipping Act, 1894, or any Act amending that Act.

(a) Made under § 179 of this Act.

Notice of Investigation.

3. When an investigation has been ordered (b), the Board of Trade may cause a notice, to be called a notice of investigation, to be served upon the owner, master, and officers of the ship, as well as upon any person who in their opinion ought to be served with such notice. The notice shall contain a statement of the questions which, on the information then in possession of the Board of Trade, they intend to raise on the hearing of the investigation, and shall be in the Form No. 1 in Part I. of the Appendix, with such variations as circumstances may require. The Board of Trade may, at any time before the hearing of the investigation, by a subsequent notice amend, add to, or omit any of the questions specified in the notice of investigation.

The Board of Trade, and any certificated officer upon whom a notice of investigation has been served, shall be deemed to be parties to the proceedings.

5. Any other person upon whom a notice of investigation has been served and any person who shows that he has an interest in the investigation shall have a right to appear, and any other person may, by leave of the judge, appear, and any person who appears under this Rule shall thereupon become a party to the proceedings.

Notice to produce.

6. A party may give to any other party notice in writing to produce any documents (saving all just exceptions) relating to the matters in difference between them, and which are in the possession or under the control of such other party; and, if the notice is not complied with, secondary evidence of the contents of the documents may be given by the party who gave the notice.

Notice to admit.

7. A party may give to any other party notice in writing to admit any documents (saving all just exceptions),

(b) § 466.

and in case of neglect or refusal to admit after such notice, the party so neglecting or refusing shall be liable for all the costs of proving the documents, whatever may be the result, unless the judge is of opinion that the refusal to admit was reasonable; and no costs of proving any document shall be allowed unless such notice has been given, except where the omission to give the notice has, in the opinion of the officer by whom the costs are taxed, caused a saving of expense.

Affidavits.

8. Affidavits may, by permission of the judge, be used as evidence at the hearing.

Proceedings in Court.

9. At the time and place appointed for holding the investigation the court may proceed with the investigation, whether the parties, upon whom a notice of investigation has been served, or any of them, are present or not.

10. The proceedings on the investigation shall commence with the production and examination of witnesses by the Board of Trade. These witnesses, after being examined on behalf of the Board of Trade, may be cross-examined by the parties in such order as the judge may direct, and may then be re-examined by the Board of Trade. Questions asked, and documents tendered as evidence in the course of the examination of these witnesses, shall not be open to objection merely on the ground that they do or may raise questions which are not contained in, or which vary from, the statement of the case, or questions specified in the notice of investigation.

11. When the examination of the witnesses produced by the Board of Trade has been concluded, the Board of Trade shall state in open court the questions in reference to the casualty, and the conduct of the certificated officers, or other persons connected therewith, upon which the opinion of the court is desired. In framing the questions for the opinion of the court the Board of Trade may make such modifications in, additions to, or omissions from the

questions in the notice of investigation as, having regard to the evidence which has been given, the Board of Trade may think fit.

12. After the questions for the opinion of the court have been stated, the court shall proceed to hear the parties to the investigation upon, and determine the questions so stated. Each party to the investigation shall be entitled to address the court and produce witnesses, or recall any of the witnesses who have already been examined for further examination, and generally adduce evidence. The parties shall be heard and their witnesses examined, cross-examined, and re-examined in such order as the judge shall direct. The Board of Trade may also produce and examine further witnesses, who may be cross-examined by the parties, and re-examined by the Board of Trade.

13. When the whole of the evidence in relation to the questions for the opinion of the court has been concluded, any of the parties who desire so to do may address the court upon the evidence, and the Board of Trade may address the court in reply upon the whole case.

14. The judge may adjourn the investigation from time to time and from place to place, and where an adjournment is asked for by a party to the investigation or by the Board of Trade, the judge may impose such terms as to payment of costs or otherwise as he may think just as a condition of granting the adjournment.

15. Except when the certificate of an officer is cancelled or suspended, in which case the decision shall always be given in open court, the judge may deliver the decision of the court either *vivâ voce* or in writing, and if in writing it may be sent or delivered to the parties. In the latter case it shall not be necessary to hold a court merely for the purpose of delivering the decision of the court.

16. The judge may order the costs and expenses of the investigation, or any part thereof, to be paid by the Board of Trade or by any other party. An order for payment of costs shall be in the Form No. 2. in Part I. of the Appendix, with such variations as circumstances may require.

report to the Board of Trade. The report shall be in form No. 8 in Part I. of the Appendix, with such modifications as circumstances may require.

Copy of Report when Certificate affected.

18. Where the certificate of a master, mate, or engineer has been cancelled or suspended, the Board of Trade shall, on application by any party to the proceedings, give a copy of the report made to the Board.

Appeals.

19. Where an appeal is to the High Court in England it shall be to a Divisional Court of the Probate Division and Admiralty Division of the High Court.

20. Every appeal under sections 475 and 478 of the Merchant Shipping Act, 1894, shall be conducted in accordance with the conditions and regulations following namely :—

(a.) The appellant shall, within the time herein-mentioned, serve on such of the other parties to the proceedings as he may consider to be directly affected by appeal, notice of his intention to appeal, and shall, within two days after setting down the appeal, give to said parties notice of the general grounds of the appeal.

(b.) Notice of appeal shall be served either within two eight days from the date on which the decision is pronounced, or within twenty-one days from the date on which the report is issued in print in London by the Board of Trade.

(c.) If the appeal is brought by any party other than the Board of Trade, the appellant shall before the appeal is heard give such security, if any, by deposit of money or otherwise, for the costs to be occasioned by the appeal, the judge from whose decision the appeal is brought on application made to him for that purpose, may direct.

(d.) The appellant shall, before the expiration of the time within which notice of appeal may be given, comply with the officer for the time being appointed for

purpose by the Court of Appeal, a copy of the notice of appeal, and the officer shall thereupon set down the appeal by entering it in the proper list.

(e.) The Court of Appeal shall be assisted by not less than two assessors, to be selected, in the discretion of that court, having regard to the nature of each case, from either or both of the following classes:—

(1.) Elder brethren of the Trinity House.

(2.) Persons approved from time to time by the Secretary of State as assessors for the purpose of formal investigations into shipping casualties, under sections 466 and 467 of the Merchant Shipping Act, 1894.

(f.) The Court of Appeal may, if it thinks fit, order any other person, other than the parties served with the notice of appeal, to be added as a party or parties to the proceedings for the purposes of the appeal, on such terms with respect to costs and otherwise as the Court of Appeal may think fit. Any party to the proceedings may object to the appearance on the appeal of any other party to the proceedings as unnecessary.

(g.) The evidence taken before the judge from whose decision the appeal is brought shall be proved before the Court of Appeal by a copy of the notes of the judge, or of the shorthand writer, clerk, secretary, or other person authorized by him to take down the evidence, or by such other materials as the Court of Appeal thinks expedient; and a copy of the evidence, and of the report to the Board of Trade containing the decision from which the appeal is brought, and of the notice of the general grounds of the appeal, shall be left with the officer for the time being appointed for that purpose by the Court of Appeal before the appeal comes on for hearing. For the purpose of this Rule, copies of the notes of the evidence, and of the report, shall be supplied to the appellant, on request, by the judge or other person having charge thereof, on payment of the usual charge for copying.

(h.) The Court of Appeal shall have full power to receive further evidence on questions of fact, such evidence to be either by oral examination in court, by affidavit, or

Evidence may also be given with special leave of the Court of Appeal as to matters which have occurred since the date of the decision from which the appeal is brought.

(i.) The Court of Appeal shall have power to make such order as to the whole or any part of the costs of and occasioned by the appeal as the court may think just.

(j.) Subject to the foregoing provisions of this Rule, every appeal shall be conducted under and in accordance with the general rules and regulations applicable to ordinary proceedings before the Court of Appeal, but there shall not be anything in the nature of pleadings other than the notice of the general grounds of the appeal, except by special permission of the Court of Appeal.

(k.) On the conclusion of an appeal the Court of Appeal shall send to the Board of Trade a report of the case in such form as the Court of Appeal may think fit.

Re-hearings by Order of Board of Trade.

21.—(a.) Where the Board of Trade direct a re-hearing, under section 475 or 478 of the Merchant Shipping Act, 1894, they shall cause such reasonable notice to be given to the parties whom they consider to be affected by the re-hearing as the circumstances of the case may, in the opinion of the Board of Trade, permit.

(b.) The provisions distinguished as (e.), (f.), (g.), (h.), (i.), (j.), and (k.) of the last foregoing Rule shall apply to a re-hearing as if it were an appeal, and as if the court or authority before whom the re-hearing takes place were the Court of Appeal.

Appointment of Assessors.

22. Subject to these Rules assessors for investigations into shipping casualties shall be appointed from the list of assessors by the Secretary of State.

23. If any investigation involves or appears likely to involve the cancelling or suspension of the certificate of a master, mate, or engineer, there shall be appointed from

the list of assessors not less than two assessors from Class I. and Class II., or from either of those classes.

24. Subject to any special appointment or appointments which the Secretary of State may think it expedient to make in any case where special circumstances appear to him to require a departure from these Rules (the requirements of the last preceding Rule being always complied with), assessors shall be appointed as follows:—

(1.) Where the investigation involves or appears likely to involve the cancelling or suspension of the certificate of a master or mate, but not of an engineer, at least two assessors shall be appointed from Class I.

(2.) Where the investigation involves or appears likely to involve the cancelling or suspension of the certificate of a master or mate of a sailing ship, one at least of the assessors shall be appointed from sub-section (a.) of Class I., and where the investigation involves or appears likely to involve the cancelling or suspension of the certificate of a master or mate of a steamship, one at least of the assessors shall be appointed from sub-section (b.) of Class I.

(3.) Where the investigation involves or appears likely to involve the cancelling or suspension of the certificate of an engineer, one at least of the assessors shall be appointed from Class II.

25. The Board of Trade shall inform the Secretary of State when assessors are required, and shall state from which of the aforesaid classes assessors ought in their opinion to be appointed, but the Board of Trade shall not request the appointment of any individual assessor.

26. An appointment made by the Secretary of State of any assessor or assessors for an investigation shall not be open to question on the ground that it was not in accordance with these Rules, or does not give full effect to the requirements of these Rules.

Computation of Time.

27. In computing the number of days within which any act is to be done, they shall be reckoned exclusive of the

first and inclusive of the last day, unless the last day shall happen to fall on a Sunday, Christmas Day, or Good Friday, or on a day appointed for a public fast or thanksgiving or holiday, in which case the time shall be reckoned exclusive of that day also.

Service of Notices.

28. Any notice, summons, or other document issued under these Rules may be served by sending the same by registered letter to the address of the person to be served.

29. The service of any notice, summons, or other document may be proved by the oath or affidavit of the person by whom it was served.

Repealing Clause.

30. The under-mentioned Rules are hereby annulled, but nothing in these Rules shall affect the previous operation of, or anything done or suffered under, any of the said Rules—

- (1.) The Shipping Casualties Rules, 1878.
- (2.) The Shipping Casualties Rules, 1879.
- (3.) The additional Rules as to investigations into casualties, made in 1880.
- (4.) The Shipping Casualties (Appeal and Re-hearing) Rules, 1880.

Publication of Rules.

31. A copy of these Rules shall be kept at every Custom House and Mercantile Marine Office in the United Kingdom, and any person desiring to peruse them shall be entitled to do so.

(Signed) HERSCHELL, C.

Dated the 7th day of March, 1895.

PART I.

The following forms shall be used, as far as possible, with such alterations as circumstances may require, but no deviation from the prescribed forms shall invalidate the proceedings, unless the judge shall be of opinion that the deviation was material :—

To _____ master, mate, engineer, owner, &c., of
or _____ belonging to the ship _____ of _____.

I hereby give you notice that the Board of Trade have ordered a formal investigation into the circumstances attending the [] and that subjoined hereto is a copy of the report [or statement of the case] upon which the said investigation has been ordered. I further give you notice to produce to the court [your Board of Trade Certificate, the log-books of the vessel, and] any [other] documents relevant to this case which may be in your possession.

I have further to give you notice that on the information at present obtained by the Board of Trade the questions annexed hereto are those upon which it appears desirable, and upon which they propose, to take the opinion of the court; but these questions will be subject to alteration, addition, omission, or amendment by the representative of the Board of Trade at the investigation, after the witnesses called by the Board of Trade have been examined.

Dated this day of 18 .

Solicitor, Board of Trade.

I. Report [or statement of case].

II. Questions.

1. Whether the

[Here insert the proposed questions.]

No. 2.—Order on a Party for Payment of Costs of Investigation.

In the matter of a formal investigation held at
on the (here state all the days on which the court sat) days of
before assisted by into the cir-
cumstances attending the

The court orders—

(1.) That A.B., of _____, do pay to the solicitor to the

Rules.

Board of Trade [the sum of pounds & expenses of this investigation.

Or (2.) That the Board of Trade do pay to [the sum of pounds on account of] the investigation.

Given under my hand this day of

No. 3.—Report of Court.

In the matter of a formal investigation held on the (*here state all the days on which the court was before* assisted by

circumstances attending the

The court, having carefully inquired into the attending the above-mentioned shipping casualty reasons stated in the Annex hereto, that the (*of the court*).

Dated this day of 18 .

We [*or I*] concur in the above report.

Assessor

Assessor

Annex to the Report.

(*Here state fully the circumstances of the case, the court touching the causes of the casualty, and the persons implicated therein, and whether the court officer is either suspended or cancelled, and if so for*

PART II.

CLASSIFICATION OF LIST OF ASSESSORS, AND QUALIFICATIONS PRESCRIBED FOR EACH CLASS.

The Merchant Shipping Act, 1894

57 & 58 Vict. c. 60.

Whereas by section 466 of the Merchant Shipping Act, 1894, it is provided that—

The court holding a formal investigation into a shipping casualty shall hold the same with the assistance of assessors of nautical engineering or other special knowledge, to be appointed out of a list of persons being approved for the purpose by a Secretary of State

manner and according to such regulations as may be prescribed by Rules made under this Act with regard thereto.

And whereas by section 467 of the Merchant Shipping Act, 1894, it is enacted as follows :—

(1.) The list of persons approved as assessors for the purpose of formal investigations into shipping casualties shall be in force for three years only, but persons whose names are on any such list may be approved for any subsequent list.

(2.) The Secretary of State may at any time add or withdraw the name of any person to or from the list.

(3.) The list of assessors in force at the passing of this Act shall subject as aforesaid continue in force till the end of the year one thousand eight hundred and ninety-five.

The Secretary of State has directed that the assessors shall, so far as in his opinion circumstances permit, be taken in order of rotation within each class or sub-class, and has further directed that the assessors placed by him on the list of assessors shall be classified according to their qualifications, as follows :—

Class I.—Mercantile Marine Masters.

(a.) Five years' service as a master in the merchant service, of which two years must have been service in command of a sailing ship with a certificate of competency.

(b.) Five years' service as a master in the merchant service, of which two years must have been service in command of a steamship, with a certificate of competency.

Class II.—Mercantile Marine Engineers.

Five years' service as an engineer in the merchant service, and at the time of appointment holding a first-class certificate of competency as an engineer.

Class III.—Royal Navy.

Rank of Admiral or Captain and three years' service in command of one of Her Majesty's ships at sea, or rank of Staff Commander and three years' service in that rank in one of Her Majesty's ships at sea.

Class IV.—Persons of Nautical Engineering or other Special Skill or Knowledge.

(a.) Such qualification as is in the opinion of the Secretary of State requisite for ordinary cases.

(b.) Such qualification as is in the opinion of the Secretary of State requisite for special cases.

APPENDIX IX.

GENERAL RULES FOR COURTS OF SURVEY IN THE UNITED KINGDOM.

APPENDIX IX. A.

RULES OF THE COURT OF SURVEY, 1876 (a).

WHEREAS by the Merchant Shipping Act, 1876, it is provided that the owner or master of a ship, that has been provisionally detained, may appeal to the Court of Survey for the port or district where the ship is detained :

And whereas it is further provided that every Court of Survey shall consist of a judge sitting with two assessors ; and that the judge of the court shall be summoned from a list of persons from time to time approved for the port or district by one of Her Majesty's Principal Secretaries of State :

And whereas it is provided that the Lord Chancellor of Great Britain may from time to time (with the consent of the Treasury so far as relates to fees) make general rules to carry into effect the provisions of the said Act with respect to Courts of Survey :

Now, therefore, I, the Right Honourable Hugh Mac-
Calmont, Baron Cairns, Lord High Chancellor of Great
Britain, with the consent so far as may be necessary of
one of Her Majesty's Principal Secretaries of State, and of
the Treasury so far as relates to fees, do order as follows :—

(a) Made under section reproduced as § 489 of this Act, and continued in
force by § 745, a. 1.

Short Title.

1. These Rules may be cited as "The Rules of the Court of Survey, 1876."

Commencement.

2. These Rules shall come into operation on the 1st day of October, 1876.

Interpretation.

3. In the construction of these Rules, words importing the singular number shall include the plural, and words importing the plural number shall include the singular number.

Courts of Survey, their Districts and Officers.

4. The Courts of Survey, with the districts assigned to each, and the persons authorized to act as judges and registrars thereof, and which have been approved by one of Her Majesty's Principal Secretaries of State, as set forth in Appendix A, shall be the Courts of Survey, and the districts, judges, and registrars of such courts, for the purposes of the Merchant Shipping Acts, 1854 to 1876.

Publication of Rules.

5. These Rules shall be published by Her Majesty's Stationery Office through its agents, and a copy shall be kept at the office of the registrar of every Court of Survey and at every Custom House and Mercantile Marine Office in the United Kingdom, and may be perused thereat by the master or owner of any ship which may be provisionally detained under the Merchant Shipping Act, 1876 (b), and by any one deputed by him.

Publication of the Name of Registrar and of his Office.

6. A notice shall be put up in some conspicuous place in every Custom House and Mercantile Marine Office in the United Kingdom, containing the name of the registrar

Courts of Survey.

of the Court of Survey for that district, and the street or place in which such registrar is situated.

Notice of Appeal.

7. Where the owner or master of a ship, called the appellant, desires to appeal to a Court, he shall file at the office of the registrar of the Court of Survey for the London district, or for the district in which the ship is, herein-after called the court, a notice of appeal in Form No. 1 in Appendix B.

Summoning of Court.

8. Immediately upon the filing of the notice of appeal, the registrar shall communicate the fact, by telegraph or letter, to the Board of Trade, who shall thereupon inform him whether they intend to have the appeal heard by the Wreck Commissioner, and, if so, on what day.

9. If the Board of Trade inform him that they do not intend to have the appeal heard by a Wreck Commissioner, the registrar shall forthwith ascertain which of the judges of the court will hear the appeal, and on what day.

10. On ascertaining when the hearing will be held, the registrar shall, if there is a list of assessors for the court, select therefrom the person who is, in his opinion, the best qualified to act as assessor on the appeal; if there is no such list, he will take the instructions of the judge as to the assessor to be appointed.

11. The Board of Trade shall appoint the other assessor, and shall forthwith send the name and address of the assessor to the registrar.

12. If the ship is a foreign ship, the registrar shall give notice to the Consular Officer (c) for the State to which the ship belongs, residing at or nearest to the place where the ship is detained, that, at the request of the court, some competent person will be selected by the court to act as assessor.

13. As soon as the registrar has ascertained by whom the appeal will be heard, he shall summon the court in the Form No. 2 in Appendix B. He shall at the same time send notice thereof to the Board of Trade and to the appellant, in the Form No. 3 in Appendix B.

14. If the survey has been made on the complaint of any person, herein-after called the complainant, the Board of Trade shall send to him notice of the time and place appointed for the hearing.

15. Previous to the hearing the Board of Trade shall forward to the registrar, to be produced as evidence at the hearing, an official copy of the report of the surveyor.

16. The court shall, if practicable, be summoned to hear the appeal on a day not later than fourteen days from the filing of the notice of appeal.

Parties.

17. The Board of Trade and the appellant shall be parties to the proceedings.

18. Any other person, on entering an appearance, may, by permission of the judge, be made a party to the proceedings.

Notice to produce.

19. Either party may give to the other a notice in writing to produce such documents (saving all just exceptions) as relate to any matters in difference, and which are in the possession or control of such other party; and if such notice be not complied with, secondary evidence of the contents of the said documents may be given by or on behalf of the party who gave such notice.

Notice to admit.

20. Either party may give to the other party a notice in writing to admit any documents (saving all just exceptions); and in case of neglect or refusal to admit after such notice, the party so neglecting or refusing shall be liable for all the costs of proving such documents, whatever the result may be, unless the court is of opinion that the

refusal to admit was reasonable ; and no costs of proving any document shall be allowed unless such notice be given, except where the omission to give the notice is, in the opinion of the officer by whom the costs are taxed, a saving of expense.

Witnesses.

21. The Wreck Commissioner shall have power to issue subpoenas as nearly as may be in the form used in the High Court of Justice, and such subpoenas shall have effect, and may be served in any part of the United Kingdom.

Affidavits.

22. Affidavits may, by permission of the judge, be used at the hearing, when sworn to in any of the following ways, viz. :—

In the United Kingdom, before any judge or registrar of a Court of Survey, or before a person authorized to administer oaths in the Supreme Court of Judicature, or before a commissioner empowered to take or receive affidavits, or before a justice of the peace for the county or place where it is sworn or made.

In any place in the British dominions out of the United Kingdom, before any court, judge, or justice of the peace, or any person authorized to administer oaths there in any court.

In any place out of the British dominions, before a British minister, consul, vice-consul, or notary public, or before a judge or magistrate, his signature being authenticated by the official seal of the court to which such judge or magistrate is attached.

Proceedings in Court.

23. At the hearing, the Board of Trade shall first call their witnesses, and having done so shall state, in writing, what order they require the court to make.

24. The complainant, if he has appeared, shall then call his witnesses, and having done so shall state, in writing, what order he requires the court to make.

25. The appellant shall then call his witnesses, and having done so shall state, in writing, what order he requires the court to make.

26. After the appellant has examined all his witnesses, the Board of Trade and the complainant may, on cause shown to the satisfaction of the judge, call further witnesses in reply.

27. After all the witnesses have been examined, the court shall first hear the appellant, then the complainant (if any), and afterwards the Board of Trade.

28. The judge may adjourn the court from time to time and from place to place, as may be most convenient.

29. The judge may deliver the decision of the court either *vivâ voce* or in writing; and, if in writing, it may be sent or delivered to the respective parties, and it shall not be necessary to hold a court merely for the purpose of giving the decision.

30. As soon as possible after the court has come to its decision, the judge shall issue an order for the release or detention (either finally or on condition) of the vessel in the Form No. 4 in Appendix B.

31. The judge shall report to the Board of Trade in the Form No. 5 in Appendix B.

Costs and Damages.

32. The court may, if the parties consent thereto in writing, decide whether costs or costs and damages are due, and to and from whom, and may assess the amount thereof; or the parties may, by consent in writing, refer the question to the Wreck Commissioner.

33. The order for the payment of costs, or of costs and damages, shall be in the Form No. 6 in Appendix B.

Computation of Time.

34. In computing the number of days within which any act is to be done, the same shall be reckoned exclusive of the first day and inclusive of the last day, unless the last day shall happen to fall on a Sunday, Christmas Day, or Good Friday, or on a day appointed for a public fast or

thanksgiving, in which case the time shall be reckoned exclusive of that day also.

35. The days between Thursday next before and the Wednesday next after Easter Day and Christmas Day, and the three following days, shall not be reckoned or included in the computation.

Service of Notices, &c.

36. Any notice, summons, or other document issuing out of the court may be served by post.

37. The service of any notice, summons, or other documents may be proved by the oath or affidavit of the person by whom it was served.

Table of Fees.

38. The fees, a table whereof is in Appendix C, shall be demanded and taken in any proceedings before a Court of Survey.

Dated this 29th day of September, 1876.

CAIRNS, C.

APPENDIX A.

LISTS OF THE COURTS OF SURVEY, with the districts assigned to each, and the persons authorized to act as judges and registrars thereof, approved by one of Her Majesty's Principal Secretaries of State.

In the following lists, Column No. 1 contains the names of all the Courts of Survey in the United Kingdom.

Districts.

The district of the Court of Survey for London shall include the City of London, and the districts of all the metropolitan county courts, the districts of the county court of Kent holden at Gravesend, Dartford, Greenwich, and Woolwich, the districts of the county court of Essex holden at Brentwood and Romford, and the district of the county court of Surrey holden at Wandsworth.

The district of any other Court of Survey in England shall be the district of the county court of the place at which the Court of Survey is held.

The district of a Court of Survey in Scotland and in Ireland shall be the district of the port of customs of the place at which the court is held.

The courts shall be held at the places whose names they bear, or at any place within their respective districts, and may, by the permission of the judge, be adjourned to any place out of such districts.

Judges.

The Wreck Commissioner shall be a judge of every Court of Survey in the United Kingdom.

The persons whose official titles are set out in Column No. 2 shall be the other judges of the Courts of Survey at the places opposite to which their names occur.

Registrars.

The registrar of the Court of Survey for London shall be Mr. William Edward Stanley Thomson, and his office shall be at Somerset House, Strand, in the county of Middlesex.

The registrar of any other Court of Survey in England shall be the registrar of the county court of the place at which the Court of Survey is held, and his office shall be the office of the registrar of the said county court.

The registrar of a Court of Survey in Scotland shall be the sheriff clerk of the county in which the court is held, and his office shall be the office of the said sheriff clerk.

The registrar of a Court of Survey in Ireland shall be the clerk of the peace, or registrar or other person discharging the duties of registrar of the court of the chairman of the county in which the court is held, and his office shall be the office of the clerk of the peace, registrar, or other person aforesaid.

LIST No. 1.

COURTS OF SURVEY IN ENGLAND.

Column No. 1. Court of Survey for	Column No. 2. Judges of the Courts of Survey at the places opposite to which their names occur.
Berwick . . . Belford . . . Alnwick . . . Morpeth . . . North Shields . . . Newcastle . . . Gateshead . . . South Shields . . . Sunderland . . . Seaham Harbour . . .	} The judges of the county courts in Circuits 1 and 2. } The Recorder of Berwick. } The judges of the county courts in Circuits 1 and 2. } The stipendiary magistrate at South Shields. } The Recorders of Durham and Newcastle. } The judges of the county courts in Circuits 2 and 15. } The stipendiary magistrate at Middlesbrough. } The Recorder of Hartlepool.

Column No. 1. Court of Survey for	Column No. 2. Judges of the Courts of Survey at the places opposite to which their names occur.
Stokesley . . .	The judge of the county courts in Circuit 16. The stipendiary magistrate at Hull. The Recorders of Hull and Scarborough.
Whitby . . .	
Scarborough . . .	
Bridlington . . .	
Beverley . . .	The judges of the county courts in Circuits 16 and 18.
Hedon . . .	
Hull . . .	
Goole . . .	
Barton-on-Humber . . .	The judge of the county courts in Circuit 17.
Great Grimsby . . .	
Louth . . .	
Spilsby . . .	
Boston . . .	The judges of the county courts in Circuits 17, 32, and 35.
Spalding . . .	
Holbeach . . .	
Wisbeach . . .	
King's Lynn . . .	The judge of the county courts in Circuit 32. The Recorder of King's Lynn.
Little Walsingham . . .	
Holt . . .	
North Walsham . . .	
Yarmouth . . .	The judge of the county courts in Circuits 32 and 33. The Recorders of Oxford (d), Norwich, and Yarmouth.
Lowestoft . . .	
Halesworth . . .	
Framlingham . . .	
Woodbridge . . .	The judge of the county courts in Circuit 33. The Recorders of Aldborough and Oxford (d).
Ipswich . . .	
Harwich . . .	
Colchester . . .	
Maldon . . .	The judges of the county courts in Circuit 38. The Recorder of Ipswich.
Rochford . . .	
London . . .	
Rochester . . .	
Sheerness . . .	The judge of the county courts in Circuit 48. The stipendiary magistrate at Sheerness. The Recorders of Faversham and Rochester.
Sittingbourne . . .	
Faversham . . .	
Canterbury . . .	
Margate . . .	The judges of the county courts in Circuits 48 and 49. The judge of the Admiralty Court of the Cinque Ports. The Recorders of Canterbury, Deal, Dover, Folke- stone, Hythe, Margate, Sandwich, and Tenterden.
Ramsgate . . .	
Sandwich . . .	
Deal . . .	
Dover . . .	The judge of the county courts in Circuit 50. The judge of the Admiralty Court of the Cinque Ports. The Recorder of Rye.
Folkestone . . .	
Hythe . . .	
Romney . . .	
Rye . . .	The judges of the county courts in Circuits 50 and 51. The stipendiary magistrate at Brighton. The Recorders of Brighton and Seaford.
Hastings . . .	
Lewes . . .	
Brighton . . .	
Worthing . . .	The judges of the county courts in Circuits 50 and 51. The Recorders of Chichester, Portsmouth, and Winchester.
Arundel . . .	
Chichester . . .	
Portsmouth . . .	

(d) So in official copy; *quærs*, read "Orford."

Column No. 1. Court of Survey for	Column No. 2. Judges of the Courts of Survey at the places opposite to which their names occur.
Southampton . . .	The judges of the county courts in Circuits 51 and 55. The Recorders of Poole, Southampton, Wareham, and Winchester.
Newport, Isle of Wight . . .	
Christchurch . . .	
Poole . . .	
Wareham . . .	
Weymouth . . .	The judge of the county courts in Circuit 55.
Bridport . . .	
Axminster . . .	The judges of the county courts in Circuits 57 and 58. The Recorder of Exeter.
Honiton . . .	
Exeter . . .	
Newton Abbott . . .	The judge of the county courts in Circuit 58. The Recorder of Dartmouth.
Totnes . . .	
Kingsbridge . . .	The judges of the county courts in Circuits 58 and 59. The Recorders of Devonport, Plymouth, and Tiverton.
East Stonehouse . . .	
Liskeard . . .	
Saint Austell . . .	The judge of the county courts in Circuit 59. The Recorders of Falmouth, Helston, and Penzance.
Truro . . .	
Falmouth . . .	
Helston . . .	
Penzance . . .	
Redruth . . .	The judge of the county courts in Circuit 57. The Recorders of Barnstaple and Bideford.
Bodmin . . .	
Camelford . . .	
Holsworthy . . .	
Bideford . . .	
Barnstaple . . .	The judges of the county courts in Circuits 54 and 57. The Recorders of Bristol and Wells.
Williton . . .	
Bridgewater . . .	
Weston-super-Mare . . .	The judges of the county courts in Circuits 53 and 54.
Wells . . .	
Bristol . . .	
Thornbury . . .	
Dursley . . .	
Gloucester . . .	The judges of the county courts in Circuits 24 and 54. The Recorder of Gloucester.
Newnham . . .	
Clepstow (e) . . .	The judges of the county courts in Circuits 24, 30, and 31.
Newport (Monmouth) . . .	
Cardiff . . .	
Bridgend . . .	The stipendiary magistrates at Cardiff and Swansea.
Neath . . .	
Swansea . . .	The judge of the county courts in Circuit 31. The Recorder of Carmarthen.
Llanelli . . .	
Carmarthen . . .	
Narbeth . . .	
Pembroke . . .	
Haverfordwest . . .	The judge of the county courts in Circuit 28.
Cardigan . . .	
Aberayron . . .	
Aberystwith . . .	
Machynlleth . . .	
Dolgelly . . .	
Portmadoc . . .	
Pwllheli . . .	

(e) So in official copy; *quære*, read "Clepstow."

Column No. 1. Court of Survey for	Column No. 2. Judges of the Courts of Survey at the places opposite to which their names occur.
Carnarvon . . .	The judge of the county courts in Circuit 29. The Recorder of Chester.
Llangefni . . .	
Bangor . . .	
Conway . . .	
St. Asaph . . .	
Holywell . . .	
Chester . . .	The judges of the county courts in Circuits 6 and 7. The stipendiary magistrate at Liverpool. The stipendiary magistrate at Birkenhead. Judge of Court of Passage. The Recorder of Liverpool.
Runcorn . . .	
Birkenhead . . .	
Liverpool . . .	
Ormskirk . . .	
Preston . . .	The judge of the county courts in Circuit 6. The judge of the county courts in Circuit 4. The Recorder of Preston.
Kirkham . . .	
Paulton-le-Fylde . . .	
Lancaster . . .	
Ulverston . . .	
Whitehaven . . .	The judge of the county courts in Circuit 3. The Recorder of Carlisle.
Cockermouth . . .	
Wigton . . .	
Carlisle . . .	

LIST No. 2.

COURTS OF SURVEY IN SCOTLAND.

Leith . . .	Sheriff and sheriff substitutes of Midlothian, Haddington, and Linlithgow.
Granton . . .	Sheriff and sheriff substitutes of Midlothian, Haddington, and Linlithgow.
Borrowstounness . . .	Sheriff and sheriff substitutes of Linlithgow and Stirling.
Grangemouth . . .	Sheriff and sheriff substitutes of Linlithgow and Stirling.
Alloa . . .	Sheriff and sheriff substitutes of Stirling, Clackmannan, and Perthshire.
Kirkcaldy . . .	Sheriff and sheriff substitutes of Fifeshire and Perthshire.
Dundee . . .	Sheriff and sheriff substitutes of Perthshire, Forfarshire, and Kincardine.
Arbroath . . .	Sheriff and sheriff substitutes of Perthshire, Forfarshire, and Kincardine.
Montrose . . .	Sheriff and sheriff substitutes of Perthshire, Forfarshire, and Kincardine.
Aberdeen . . .	Sheriff and sheriff substitutes of Aberdeenshire and Kincardine.
Peterhead . . .	Sheriff and sheriff substitutes of Kincardine, Banffshire, and Aberdeenshire.
Banff . . .	Sheriff and sheriff substitutes of Aberdeenshire, Banffshire, and Elgin.
Inverness . . .	Sheriff and sheriff substitutes of Nairn, Invernessshire, and Ross.
Wick . . .	Sheriff and sheriff substitutes of Caithness and Sutherland.

Column No. 1. Court of Survey for	Column No. 2. Judges of the Courts of Survey at the places opposite to which their names occur.
Campbeltown . . .	Sheriff and sheriff substitutes of Argyleshire.
Glasgow . . .	Sheriff and sheriff substitutes of Lanarkshire, Renfrewshire, and Dumbarton.
Greenock . . .	Sheriff and sheriff substitutes of Lanarkshire, Renfrewshire, and Ayrshire.
Ardrossan . . .	Sheriff and sheriff substitutes of Renfrew and Ayrshire.
Ayr . . .	Sheriff and sheriff substitutes of Ayrshire, Renfrewshire, and Wigtonshire.
Stranraer . . .	Sheriff and sheriff substitutes of Ayrshire, Wigton, and Kircudbright.
Wigton . . .	Sheriff and sheriff substitutes of Ayrshire, Wigton, and Kircudbright.
Dumfries . . .	Sheriff and sheriff substitutes of Dumfries and Kircudbright.

LIST No. 3.

COURTS OF SURVEY IN IRELAND.

Dublin . . .	The Recorder of Dublin. Resident magistrates and chairman of quarter session for co. Dublin.
Drogheda . . .	Resident magistrates and chairmen of the cos. of Louth and Meath.
Dundalk . . .	Resident magistrates and chairman of co. of Louth.
Newry . . .	Resident magistrates and chairmen of cos. of Armagh and Down.
Belfast . . .	The Recorder of Belfast. Resident magistrates and chairman of quarter sessions for co. of Antrim.
Coleraine . . .	Resident magistrates and chairman of co. of Londonderry.
Londonderry . . .	The Recorder of Londonderry. Resident magistrates and chairman of quarter sessions for co. of Londonderry.
Sligo . . .	Resident magistrates and chairman of co. Sligo.
Ballina . . .	Chairman of quarter sessions of co. Mayo. Resident magistrate.
Westport . . .	Chairman of co. Mayo.
Galway . . .	The Recorder of Galway, resident magistrates and chairman of co. Galway.
Limerick . . .	Resident magistrates, chairmen of cos. Clare and Limerick.
Tralee . . .	Chairman of co. Kerry.
Skibbereen . . .	Chairman of co. Cork.
Cork . . .	The Recorder of Cork, resident magistrates and chairman of quarter sessions.
Youghal . . .	Chairman of co. Cork.
Waterford . . .	Resident magistrates, chairman of co. Waterford.
New Ross . . .	Chairmen of cos. Wexford and Kilkenny.
Wexford . . .	Resident magistrate, chairman of co. Wexford.

APPENDIX B.

The following forms shall be employed, as far as possible with such alterations as circumstances may require, but no deviation from the prescribed forms shall invalidate the proceedings, unless the judge shall be of opinion that the deviation was material :—

No. 1.—Notice of Appeal.

The Merchant Shipping Acts, 1854 to 1876.

In the matter of the ship "Marian."

To the registrar of the Court of Survey for

Take notice that I [*name and address*] the master [*or managing owner, or owner of* shares] of the ship of the port of do appeal

(1) from the report of *L.M.*, the surveyor appointed by the Board of Trade to survey the said ship.

or (2) from a declaration given by a shipwright surveyor or engineer, [*or from the refusal of a shipwright surveyor or engineer to give a declaration,*] under the provisions of section 309 of the Merchant Shipping Act, 1854 (*f*).

or (3) from the refusal of an emigration officer [*or as the case may be*] to give a certificate of clearance under sections 11 and 50 of the Passengers Act, 1855 (*g*).

or (4) from the refusal of appointed by the Board of Trade under the provisions of section 30 of the Merchant Shipping Act Amendment Act, 1862 (*h*), to give a certificate that the said ship is properly provided with lights and with the means of making fog signals.

The address at which all notices and documents may be served by post or otherwise on me is

Dated this day of 18 .

(*To be signed by the appellant.*)

No. 2.—Summons to Court.

The Merchant Shipping Acts, 1854 to 1876.

The Court of Survey for

In the matter of an appeal from the report of *L.M.*, the surveyor appointed by the Board to survey the "Marian" [*or as the case may be*].

In pursuance of the Merchant Shipping Act, 1876, I hereby summon you to attend as judge [*or assessor*] on this appeal, at on the day of at the hour of in the noon.

(*f*) Reproduced as § 275.

(*h*) Reproduced as § 420.

(*g*) Reproduced as §§ 314, 316.

S.M.S.A.

2 Y

I will attend as summoned.

I do report that, having heard this appeal, I did, with the concurrence of order the said ship to be released *or* detained [finally *or* conditionally upon] for the reasons set forth in the annexed statement.

I am also of opinion that the costs of this appeal should be paid by *A.B.* to the solicitor of the Board of Trade [*or by the solicitor to the Board of Trade to A.B. ; or that all parties shall pay their own costs*].

Dated this day of 18 .

Judge.

We [*or I*] concur in the above report,

Assessor.

Assessor.

No. 6.—Order for Payment of Costs, or of Costs and Damages.

The Merchant Shipping Acts, 1854 to 1876.

The Court of Survey for

In the matter of an appeal by from

[The parties to this appeal having, by agreement in writing, consented to refer the question whether any costs or costs and damages are due, and to and from whom, to me *or us*, with liberty to assess the amount thereof], I order

(1) that the Board of Trade do pay to the appellant the sum of for the costs [*or the costs and damages*] incurred by reason of such detention and survey.

or (2) that the appellant do pay to the solicitor of the Board of Trade the sum of for the costs incurred by reason of the detention and survey of the said ship.

or (3) that each party pays his own costs.

Given under my hand this day of 18 .
Judge.

We [*or I*] concur in the above order.

Assessor.

Assessor.

APPENDIX C.

	£	s.	d.
On filing notice of appeal, for every 50 tons of the gross registered tonnage of the ship	0	10	0
On filing every affidavit	0	2	6
On entering appearance	0	10	0
On every subpoena	0	2	6
On every statement of the order required to be made by the court	0	10	0
On the production and swearing of every witness	0	2	6
On every consent by the parties to refer the question of costs, or of costs and damages, to the court or judge, to be paid by each party	0	10	0
On every hearing, for each day, to be paid by each party, the amount thereof to be at the discretion of the judge	1	0	0
	5	0	0

	£	s.	d.
On every order whether for the release or detention of the ship, or for payment of costs, or costs and damages, to be paid by the party taking out the order	1	0	0
On every office copy of the judge's judgment or report, of the shorthand writer's notes of the evidence, or of any of the proceedings in the appeal, per folio of 72 words	0	0	6

APPENDIX IX. B.

FURTHER RULES FOR COURTS OF SURVEY (†).

WHEREAS by the 9th section of the Merchant Shipping Act, 1876, it is provided that the Lord Chancellor of Great Britain may from time to time, with the consent of the Treasury so far as relates to fees, make, and when made, revoke, alter, and add to, general rules to carry into effect the provisions of that Act, with respect to a Court of Survey, and in particular, amongst other things, with respect to the amount and application of the fees to be received therein :

And whereas it is expedient, with a view to the proper application of the fees to be received in Courts of Survey, to provide for their collection by means of stamps :

Now, therefore, I, the Right Honourable Hugh MacCallmont, Baron Cairns, Lord High Chancellor of Great Britain, with the consent of the Treasury, do order as follows :—

(1.) The fees set forth in Appendix C to the General Rules established for Courts of Survey in the United Kingdom, bearing date the 29th September, 1876, shall be taken in stamps, to be impressed, so far as may be possible, on the documents to which they refer, such impressed stamps to be obtained from the commissioners of inland revenue in London, or from their stamp distributors.

(2.) Immediately on the termination of an appeal before

(†) Made under the section reproduced as § 489.

a Court of Survey elsewhere than in London, the registrar of the court shall forward to the registry of the Court of Survey for London, at Somerset House, London, for deposit therein, all the papers, stamped and unstamped, belonging to the said appeal.

Dated this 11th day of January, 1877.

(Signed)

CAIRNS, C.

We approve, so far as relates to fees.

(Signed)

ROW. WINN.

(Signed)

J. D. H. ELPHINSTONE.

APPENDIX X.

SCALES of length of voyage of emigrant ships, fixed by Board of Trade under the section reproduced in § 269 of this Act, published in the *London Gazette*, June 23, 1891, and continuing in force under § 745, s. 1.

	<p>If the ship be propelled by sails alone, or by steam power not sufficient, without the aid of sails, to propel the ship at the rate of at least five statute miles an hour.</p> <p>(1)</p> <p>If the ship be propelled either wholly or in aid of sails by steam-engines of not less power than sufficient, without the aid of sails, to propel the ship at the rate of at least five statute miles an hour.</p> <p>(2)</p> <p>If the ship be propelled either wholly or in aid of sails by steam-engines of not less power than sufficient, without the aid of sails, to propel the ship at the rate of at least ten statute miles an hour for passages other than by the Suez Canal.</p> <p>(3)</p> <p>If the ship be propelled either wholly or in aid of sails by steam-engines of not less power than sufficient, without the aid of sails, to propel the ship at the rate of at least ten statute miles an hour for passages by the Suez Canal.</p> <p>(4)</p> <p>If the ship has double screws, and is propelled either wholly or in aid of sails by steam-engines of not less power than sufficient, without the aid of sails, to propel the ship at the rate of at least fourteen statute miles an hour.</p> <p>(5)</p> <p>If the ship has double screws, and is propelled either wholly or in aid of sails by steam-engines of not less power than sufficient, without the aid of sails, to propel the ship at the rate of at least fourteen statute miles an hour for passages by the Suez Canal.</p> <p>(6)</p>					
	Days.	Days.	Days.	Days.	Days.	Days.
1. To North America (except to the west coast thereof)— For ships clearing out between the 15th day of January and the 14th day of October, both days inclusive	70	40	32	—	24	—
For ships clearing out between the 15th day of October and the 15th day of January, both days inclusive	80	45	37	—	28	—
2. To the coast of Africa south of the Equator, or to the Falkland Islands, or to any part of the east coast of South America southward of the 25th degree of south latitude	105	65	65	—	49	—
3. To Western Australia	120	85	80	70	60	53
4. To Queensland	150	90	90	75	68	56
5. To any other of the Australian colonies	140	90	85	75	64	56
6. To New Zealand	150	90	90	85	68	64
7. To the western coast of America north of the 40th degree of north latitude, and the islands adjacent thereto	182	96	96	—	72	—

APPENDIX XI.

PILOTAGES IN VARIOUS PORTS AND DISTRICTS.

THIS information is abstracted from the Pilotage Return for 1893 [1894, 160], the last published, which can be obtained from the Queen's Printers for 1s. 6d. Fuller information is also contained in Marsden on Collisions, 3rd edit., pp. 258-280, and Newson on Salvage, Towage, and Pilotage, ch. xix. "Trinity outport" means Trinity House (London) outport district, in which pilotage is compulsory under § 622; cf. § 618 s. 3. Comp. = Compulsory pilotage.

(a.) ENGLAND AND WALES.

- | | |
|---|--|
| <i>Aberdovey</i> : Comp. Trinity outport. | <i>Burnham</i> . See Bridgwater. |
| <i>Alnmouth</i> : Free. Newcastle Trinity House. | <i>Cadnant</i> . See Beaumaris. |
| <i>Amble</i> : Ditto. | <i>Caernarvon</i> (Port Dinorwic): Comp. Trinity outport. |
| <i>Annan</i> . See Carlisle. | <i>Cardiff</i> : Free. See Bristol. |
| <i>Arundel</i> (Littlehampton): Comp. on all vessels 30 tons and upwards. | <i>Carlisle</i> (Maryport, Silloth, Annan): Comp. Trinity outport. |
| <i>Barrow</i> : Comp. Trinity outport. | <i>Chatham</i> . See Rochester. |
| <i>Barry</i> : Free. | <i>Chester</i> : Stated to be free in Pilotage Return, 1892, but held in <i>Jones v. Bennett</i> (1890), 63 L. T. 705, to be compulsory. |
| <i>Beaumaris</i> (Cadnant): Comp. Trinity outport. | <i>Chichester</i> . See I. of Wight. |
| <i>Blakeney</i> : Comp. over 50 tons. | <i>Christchurch</i> . See Poole. |
| <i>Blyth</i> : Free. Newcastle Trinity House. | <i>Colchester</i> (Wivenhoe): Comp. Trinity outport. |
| <i>Boston</i> : Comp. for vessels over 30 tons. | <i>Cowes</i> . See Isle of Wight. |
| <i>Bridgwater</i> (Burnham): Comp. Trinity outport. | <i>Dartmouth</i> : Comp. Trinity outport. |
| <i>Bridport</i> : Ditto. | <i>Dinorwic, Port</i> . See Caernarvon. |
| <i>Bristol</i> : Comp., except coasters, within port of Bristol; free beyond. Cf. Pilotage Order Confirmation Act, 1891, No. 1. As to vessels running between Bristol and Cardiff, Newport or Gloucester, see <i>The Charlton</i> (1895), 72 L. T. 198, affirmed in the C. A. | <i>Downham</i> . See Ipswich. |
| | <i>Exeter</i> (Topsham): Comp. Trinity outport. |
| | <i>Falmouth</i> (Truro): Ditto. See <i>The Juno</i> (1875), L. R. 1 P. D. 135. |
| | <i>Fleetwood</i> : Ditto. |
| | <i>Fowey</i> : Ditto. |
| | <i>Gainsborough</i> . See Hull. |

- Gloucester* (Sharpness): Free. See Bristol.
- Goolle*: Hull Trinity: partly compulsory. See *The Killarney* (1862), Lush. 427; *The Maria* (1867), L. R. 1 A. & E. 358; *The Rigborg Minde* (1883), 8 P. D. 132.
- Grimsby*. See Hull.
- Hartlepool*: Free.
- Harwich*: Comp. Trinity outport.
- Hayle* (Wratness). See St. Ives.
- Holyhead*: Ditto.
- Holy Island*: Free. Newcastle Trinity.
- Hull*: Hull Trinity House, partly free, partly compulsory. See cases under Goolle.
- Humber, River*. See Hull.
- Ipswich* (Downham): Comp. Trinity outport. See *Hadgraft v. Hewit* (1874), L. R. 10 Q. B. 350.
- Isle of Wight* (Chichester, Cowes, Portsmouth): Ditto.
- King's Lynn*: Comp., except under 30 tons, between Harbour and Lynn Roads; free beyond.
- Lancaster*: Comp., except on vessels in ballast and coasters.
- Littlehampton*. See Arundel.
- Liverpool*: Comp. See decisions cited in Marsden, p. 269.
- Llanelly*: Comp.
- London*: Trinity House. Comp. See §§ 622, 618, a. 1; and Preliminary Note to Part X.
- Lowestoft*: Comp. Trinity outport.
- Maldon*: Ditto.
- Maryport*. See Carlisle.
- Middlesboro'*: Free.
- Milford*: Comp. Trinity outport.
- Monmouth*. See Newport.
- Neath*: Comp. Trinity outport.
- Newcastle*: Free (cf. *The Johann Sverdrup* (1886), 12 P. D. 43); under jurisdiction of Tyne Pilotage Commissioners exercising old jurisdiction of Newcastle Trinity House.
- Newhaven*: Comp. Trinity outport district.
- Newport* (Monmouth): Free. See Bristol.
- Padstow*: Comp. Trinity outport district.
- Pensance*: Ditto.
- Plymouth*: Ditto.
- Poole* (and Christchurch): Comp. Trinity outport district.
- Port Talbot*: Comp. under 4 Will. IV. c. 43, L. & P. § 73.
- Porthcaul*: Free.
- Portmadoc*: Comp. Trinity outport district.
- Portsmouth*. See Isle of Wight.
- Preston*: Comp. Trinity outport district.
- Rochester* (Otham, Sheerness): Ditto.
- Rye*: Ditto.
- St. Ives*: Ditto.
- Scilly*: Ditto.
- Seaham Harbour*: Free. Newcastle Trinity House.
- Sharpness*. See Gloucester.
- Sheerness*. See Rochester.
- Shields*: Free. See Newcastle.
- Shoreham*: Comp. Trinity outport district.
- Silloth*. See Carlisle.
- Southampton*: Free. Trinity outport district.
- Southwold*: Comp. under Local Act.
- Spalding*: Partly free, partly compulsory, under Trinity House of Hull.
- Stockton*: Free.
- Sunderland*: Free.
- Sunderland, North*: Free. See Newcastle.
- Swansea*: Pilotage Return of 1893 says pilotage is free; Marsden (p. 278), that it is compulsory on inward-bound vessels, except under 100 tons in ballast.
- Teignmouth*: Comp. Trinity House outport.
- Topsham*. See Exeter.
- Truro*. See Falmouth.
- Tynemouth*: Free. See Newcastle.
- Warkworth*. See Amble.
- Wells*: Comp. Trinity outport district.
- Weymouth*: Ditto.
- Whitby*: Free. See Newcastle.
- Wisbech*: Partly free, partly compulsory. See Hull.
- Woodbridge*: Comp. Trinity outport district.
- Yarmouth, Great*: Comp. Trinity outport district.

(b.) SCOTLAND.

Aberdeen : Pilotage Return, 1893, says free; Marsden (p. 264), compulsory.
Arbroath : Comp. (doubtful).
Ayr : Comp., except under 40 tons.
Borrowslounness : Free.
Buckle (Cluny) : Comp. according to return of 1893; Marsden (p. 277) says free.
Burghhead : Ditto.
Burntisland : Free.
Charlestown : Free.
Dundee : Free.
Fraserburgh : Comp. over 80 tons.
Glasgow : Comp. within limits over 60 tons, except for vessels under 100 tons in tow of a tug whose master has a pilotage certificate.
Grangemouth : Free.

Greenock : Free.
Inverness : Free.
Irvine : Comp. (doubtful).
Kirkcaldy : Pilotage Return, 1893, free; Marsden (p. 268) says compulsory.
Leith (Trinity House and Harbour Docks) : Free.
Leven and Methil : Free.
Lossiemouth : Comp. over 40 tons.
Montrose : Free.
Nairn : Free.
Peterhead : Comp. over 80 tons.
Rosehearty : Pilotage Return, 1893, says compulsory; Marsden (p. 278), free.
Sandhaven : Ditto.
Stonehaven : Ditto.
Wick : Comp. over 20 tons.

(c.) IRELAND.

Ballina : Comp. inward bound.
Ballyshannon : Free.
Belfast : Comp., except ships in ballast or in distress.
Carlingford Bar : Pilotage Return, 1892, free; Marsden (p. 278), compulsory.
Coleraine : Free.
Cork : Free. See *The Eden* (1846), 2 W. Rob. 442.
Drogheda : Comp., except steamships.
Dublin : Comp., except coasters under 50 tons, or laden with fish or

potatoes, and vessels in ballast.
Galway : Comp., with exceptions. See Marsden, p. 266.
Limerick : Comp. (doubtful).
Londonderry : Comp., except ships under 60 tons in ballast.
Newry : Free (doubtful).
Sligo : Comp. inward over 20 tons, with exceptions (Marsden, p. 275).
Tralee : Comp. (doubtful).
Waterford : Comp.
Westport : Comp.
Wexford : Comp.

APPENDIX XII.

ORDER IN COUNCIL AS TO PILOT SIGNALS.

At the Court at Windsor, the 12th day of December, 1894. Present: The Queen's Most Excellent Majesty in Council.

Whereas by the six hundred and fifteenth section of the Merchant Shipping Act, 1894, it is enacted that Her Majesty may by Order in Council make rules as to the signals to be used or displayed where the services of a pilot are required on any vessel, such signals being referred to in that Act as pilot signals:

And whereas by the thirty-seventh section of the Interpretation Act, 1889, it is (amongst other things) enacted, that where an Act passed after the commencement of that Act is not to come into operation immediately on the passing thereof, and confers powers to make any Order in Council, that power may be exercised at any time after the passing of the Act so far as may be necessary or expedient for the purpose of bringing the Act into operation at the date of the commencement thereof:

And whereas the Merchant Shipping Act, 1894, does not come into operation until the first of January, one thousand eight hundred and ninety-five:

And whereas it is necessary or expedient to make rules as to pilot signals to come into operation on the same day as the said Merchant Shipping Act, 1894:

And whereas the operation of the said rules immediately upon the commencement of the Merchant Shipping Act, 1894, is urgent:

Now, therefore, Her Majesty, by virtue of the powers so

vested in Her as aforesaid, and by and with the advice of Her Privy Council, is pleased to approve as pilot signals the signals specified in the schedule annexed hereto, and doth order that such signals shall be used as pilot signals, on and after the first day of January, one thousand eight hundred and ninety-five.

C. L. PEEL.

SCHEDULE TO WHICH THE FOREGOING ORDER REFERS.

Signals to be made by Ships wanting a Pilot.

In the day-time.—The following signals, numbered 1 and 2, when used or displayed together or separately, shall be deemed to be signals for a pilot in the day-time, viz. :—

(1.) To be hoisted at the fore, the Union Jack having round it a white border, one-fifth of the breadth of the flag ; or,

(2.) The International Code pilotage signal indicated by P.T.

At night.—The following signals, numbered 1 and 2, when used or displayed together or separately, shall be deemed to be signals for a pilot at night, viz. :—

(1.) The pyrotechnic light commonly known as a blue light every fifteen minutes ; or

(2.) A bright white light, flashed or shown at short or frequent intervals just above the bulwarks, for about a minute at a time.

APPENDIX XIII.

ORDER IN COUNCIL AS TO APPRENTICES ON
FISHING BOATS.

At the Court at Windsor, the 12th day of December, 1894. Present :
The Queen's Most Excellent Majesty in Council.

Whereas by section three hundred and ninety-three of the Merchant Shipping Act, 1894, it is (among other things) enacted that a boy under the age of sixteen years shall not be taken to sea for the purpose of serving in any capacity connected with the sea-fishing service, for a longer period than one day, unless he is bound by an indenture of apprenticeship or agreement made in conformity with Part IV. of the said Act.

And whereas by section three hundred and ninety-five of the same Act it is (among other things) enacted that indentures of apprenticeship to the sea-fishing service and agreements with boys under the age of sixteen years with respect to that service, shall be in such form and contain such covenants, provisions, stipulations, endorsements, and certificates as are prescribed by Order in Council made on the recommendation of the Board of Trade, and any directions given in the forms so prescribed shall be complied with.

And whereas the Board of Trade have recommended that the said indentures of apprenticeship and agreements respectively shall be in forms set forth in the schedule hereto, and it is expedient to prescribe the same accordingly.

And whereas the operation of this Order immediately upon the commencement of the Merchant Shipping Act, 1894, is urgent.

Now, therefore, Her Majesty, in exercise of the power vested in Her by the said recited Act, on the recommendation of the Board of Trade, and by and with the advice of Her Privy Council, doth hereby order and prescribe that on and after the first day of January, one thousand eight hundred and ninety-five, the indentures of apprenticeship to the sea-fishing service and agreements with boys under the age of sixteen years, with respect to that service, shall be in the respective forms set forth in the schedule hereto, and shall contain the covenants, provisions, stipulations, endorsements, and certificates therein respectively mentioned.

C. L. PEEL.

THE SCHEDULE REFERRED TO IN THE FOREGOING ORDER.

Port of

No.

APPRENTICESHIP INDENTURE.

SEA-FISHING SERVICE.

This indenture made the _____ day of _____ 18____, between
 aged _____ years, a native of _____ in the county of _____
 hereinafter called the apprentice of the one part, and
 of _____ in the county of _____ owner of not less than
 eight sixty-fourth shares in (or skipper of) the fishing boat _____ of
 (hereinafter called the master) of the other part, WITNESSETH
 that the master (which term shall include the executors, administrators,
 and assigns of the master if consistent with the context) and the apprentice
 hereby mutually covenant and agree to the terms, conditions, and stipulations
 set out in the body and upon the back of this indenture:

1. The apprentice binds himself apprentice to the master for the term
 of _____ years from the date hereof, subject to a probationary period
 of _____ as hereinafter more particularly mentioned.

2. During such time the apprentice will faithfully serve his
 master and obey his lawful commands and keep his secrets, and
 when requisite give to his master true accounts of his goods and
 money which may in any way come into the hands of the apprentice.
 The apprentice will not during the said term do any damage to his
 master, nor will he consent to any such damage being done by
 others, but will if possible prevent the same and give warning
 thereof, and will not embezzle, waste, or otherwise wrongfully deal
 with the goods of his master, nor frequent taverns or alehouses, nor
 absent himself from his master's service without leave.

3. The master will during the said term of apprenticeship use
 all proper means to teach the apprentice, or cause him to be taught,
 the business of a seaman and fisherman, and will provide the appren-
 tice with sufficient meat, drink, lodging, washing, medicine, and
 medical and surgical assistance, sea-bedding, wearing apparel, and
 necessaries.

4. All wearing apparel provided by the master for the use of the
 apprentice shall during the said term remain the property of the
 master, the apprentice having full right to the use thereof at all
 times for his own sole use and wear, but he shall not acquire any
 right or title thereto for the purpose of selling, pledging, or other-
 wise disposing of such apparel, until the expiration of the apprentice-
 ship, when such apparel shall become the apprentice's property.

5. The master shall not during the said term pay to the apprentice any
 money for the purpose of enabling him to obtain board and lodging for
 himself, but the master will provide the apprentice with suitable and suffi-
 cient board and lodging to the satisfaction of the superintendent. The
 superintendent referred to throughout this indenture shall mean the super-
 intendent of a Mercantile Marine Office, who for the time being may have
 cognizance of the matter upon the application of either party, or upon his
 own initiative, or otherwise howsoever.

6. The master will pay to or on account of the apprentice the
 remuneration specified on the back of this indenture under the letter "A"
 at the times and in manner hereinafter or in such endorsement appearing.

All remuneration to which the apprentice shall become entitled, whether
 as spending money, perquisites, or share of salvage, shall (except as next
 hereinafter provided) be paid by the master to the superintendent, to be

Registered at the port of _____
 18____ day of _____
 (Signed)

forthwith paid by him into the Seamen's Savings Bank to the account of the apprentice. Provided that when the apprentice is ashore the master shall pay into his own hands the daily or weekly sums specified on the back hereof under the letter "B," and if such daily or weekly sum is more than the spending money hereby agreed to be paid, the master shall be entitled to receive the difference from the superintendent at such times as he may think proper out of the fund standing in the name of the apprentice in the Seamen's Savings Bank. Provided that if the superintendent shall be of opinion that on account of misconduct, or the state of the fund, or for other sufficient reasons, the apprentice ought not to receive into his own hands any sums whatsoever, or that the sum ought to be reduced, and shall in writing so inform the master, the payments to the apprentice, or such part thereof as the superintendent shall specify, shall thereupon be discontinued for such period as the superintendent may determine, and the spending money, or the balance, if any remaining, after paying the reduced amount to the apprentice, shall be paid by the master to the superintendent, to be placed to the credit of the account aforesaid. Subject to all necessary withdrawals by the superintendent from the said account in the Seamen's Savings Bank for the purposes hereinbefore mentioned, and for the payment of any sum in the nature of a fine imposed upon the apprentice by a court of competent jurisdiction, and for other special purposes which the superintendent shall, in his discretion, think proper to allow, the amount standing to the credit of the said account shall there remain until the expiration, or other sooner determination of the said term of apprenticeship, whereupon the balance standing to the credit of the said account, after providing for all payments and deductions then proper to be made, shall be paid or transferred to or to the credit of the apprentice.

7. The apprentice shall not be required to serve in any fishing boat in which the master is not, during the continuance of such service, himself serving as skipper, second hand, or seaman, or in which the master, if not so serving, does not, during the continuance of the apprentice's service in such fishing boat, possess an interest therein of at least eight sixty-fourth shares. Provided that if, in the opinion of the superintendent, it is desirable, and the apprentice consents, it shall be lawful for such apprentice to serve in some other fishing boat approved by the superintendent for a period not exceeding two months.

8. The master will attend with the apprentice before the superintendent within twenty-eight days after the expiration of the probationary period hereinbefore referred to, or if they or either of them are or is at sea during that time, then immediately on return to port. And if this indenture is not then cancelled as hereinafter provided, the master shall also attend with the apprentice once at least in every half-year during the continuance of this indenture before the superintendent, with a view to the investigation by him of questions affecting the remuneration or earnings and service of the apprentice, and will give a full, true, and faithful account and report of such remuneration or earnings, and of the character, conduct, and efficiency of the apprentice. And in the event of any change of abode, or of any gross misconduct on the part of the apprentice, or of any serious accident happening to him, the master will forthwith as soon as practicable give notice thereof to the superintendent.

9. The master will allow the apprentice a reasonable holiday in each year during the continuance of the said term of apprenticeship, to the satisfaction of the superintendent, for the purpose of visiting his relations or friends, unless in the opinion of the superintendent the apprentice is not entitled to such holiday in any year by reason of misconduct.

10. If during the probationary period hereinbefore referred to, or upon the first attendance of the master and apprentice before the superintendent, at the expiration thereof, in pursuance of the covenant hereinbefore contained, the superintendent is of opinion, in all the circumstances of the case,

that it will not be desirable in the interest of the apprentice to allow this indenture to remain in force; or

If at any time during the continuance of the said term of apprenticeship the superintendent is of opinion that the master is or will be unable within a reasonable period to provide the apprentice with such service as is intended and permitted under this indenture;

The superintendent shall in either event have power to cancel and determine this indenture from such date, and upon such terms and conditions, and subject to such payments by way of compensation or adjustment of accounts between the master and apprentice as the superintendent may deem to be just and proper in the circumstances of the case, and he may thereupon certify the same on the back hereof under the letter "E." Upon such certificate being signed and notified to the master and apprentice, it shall take effect according to the terms thereof, and be binding upon the parties, and any amount payable thereunder to the apprentice shall be recoverable as wages due to him. And any amount payable thereunder to the master may be paid to him out of the fund (if any) then standing in the name of the apprentice in the Seamen's Savings Bank.

11. Breaches of agreement or discipline alleged to have been committed by the apprentice during the probationary period shall not be taken before any court for adjudication, unless and until the superintendent shall have declined to inquire into or to adjudicate upon the same.

12. For the performance of the covenants, conditions, terms, and stipulations contained in the body and on the back of this indenture, the master binds himself, his heirs, executors, and administrators unto the apprentice, his executors, and administrators in the penal sum of £ : Provided that, notwithstanding the penal stipulations herein contained, any justice or justices of the peace may exercise such jurisdiction in respect of the apprentice as he or they might have exercised if no such stipulations had been herein contained.

In witness whereof the master and apprentice have executed this indenture.

L. S.

Master.

L. S.

Apprentice.

This indenture is made before me in accordance with the Merchant Shipping Act, 1894.

Superintendent of the Mercantile Marine Office.

Port of .

NOTE.—This indenture must be executed in *triplicate*; one copy will be retained and recorded by the superintendent, one retained by the master, and the other retained by the apprentice.

MERCHANT SHIPPING ACT, 1894.

ENDORSEMENTS REFERRED TO IN THE BODY OF THIS INDENTURE AND
IN THE ACT.

A.

Particulars of Remuneration, viz. :

1. Spending money or allowance in the nature of wages per week during the continuance of the indenture.
2. Shares of salvage or salvage services.
3. Perquisites and other emoluments, if any.

[Here insert full particulars of the amounts to be from time to time paid by the master on account of the apprentice during the term of the apprenticeship under the different heads.]

B.

Daily or weekly sums to be paid by the master into the hands of the apprentice, subject to the provisions of Clause 6.

C.

I hereby certify, pursuant to section three hundred and ninety-five of the Merchant Shipping Act, 1894, that

- (a.) this indenture complies with all the requirements of Part IV. of the Merchant Shipping Act, 1894.
- (b.) the master with whom the indenture is made is a fit person for the purpose.
- (c.) the apprentice is not under the age of thirteen years, and is of sufficient health and strength.

*(d.) $\left\{ \begin{array}{l} \text{the nearest relations of the apprentice or his guardians assent to} \\ \text{this apprenticeship and to the stipulations in the indenture of} \\ \text{apprenticeship.} \\ \text{no nearest relations or guar-} \end{array} \right. \left\{ \begin{array}{l} \text{can readily be found} \\ \text{are known} \end{array} \right\} \text{and in their absence I} \\ \left. \begin{array}{l} \text{dians of the apprentice} \\ \text{have acted as guardian for the occasion.} \end{array} \right.$

Dated this day of 18 .

Superintendent.

* Strike out the words which do not apply.

D.

The apprentice having this day been brought before me, I hereby certify that upon full inquiry I see no sufficient grounds for interfering with this indenture.

Dated this day of 18 .

Superintendent.

[Certificate to be signed by superintendent if indenture not cancelled at expiration of probationary period.]

E.

I certify that in my opinion, in all the circumstances of the case, it will not be desirable in the interests of the apprentice to allow the within written indenture to remain in force, and I hereby cancel and determine the same accordingly from the day of 18 (upon the terms and conditions and subject to the payments following, viz. :)

Dated this day of 18 .

Superintendent.

[Certificate to be signed if indenture cancelled during probationary period, or upon first attendance before superintendent.

Strike out the words in brackets if not wanted.]

I certify that in my opinion the master is, or will be, unable within a reasonable period to provide the apprentice with such service as is intended and permitted under the within written indenture. And I hereby cancel and determine the same accordingly from the day of 18 (upon the terms and conditions and subject to the payments following, viz. :)

Dated this day of 18 .

Superintendent.

Port of

No.

[Certificate to be signed if indenture cancelled on account of inability of master to provide service.

Strike out words in brackets if not wanted.]

AGREEMENT WITH A BOY UNDER THE AGE OF SIXTEEN YEARS.

SEA-FISHING SERVICE.

An agreement made this day of 18 , between
 this county of (hereinafter called the "boy") of the first part,
 and of in the county of , owner
 of not less than eight sixty-fourth shares in (or skipper of) the
 fishing boat of (hereinafter called the "master")
 of the second part, WITNESSETH that the boy herewith voluntarily agrees to serve as a sea fishing boy on board the fishing boats of which the master is owner (or skipper) for

[Here insert the nature of the engagement, whether for the voyage or for a stated period.]

Registered at the port of day of (Signed)
 and the boy agrees to conduct himself in an orderly, faithful, honest, and sober manner, and to be at all times diligent in his duties, and to be obedient to the lawful commands of his master, and of the skipper and officers of the fishing boat on which he is serving in everything relating to his service and the fishing boat, and the stores and cargo thereof, whether on board, in boats, or on shore. And the master agrees to pay to the boy the wages and remuneration stated on the back of this agreement, and to supply him when afloat with suitable and sufficient provisions to the satisfaction of a superintendent of a Mercantile Marine Office.

And shall also, whenever the boy is on shore during the continuance of his agreement, provide him with suitable and sufficient board and lodging to the satisfaction of a superintendent of a Mercantile Marine Office. (a) And it is hereby agreed that any embezzlement, or wilful or negligent destruction of any part of said boat's cargo or stores shall be made good to the owner out of the wages of the boy. The regulations as to fines which are printed

(a) This sentence may be struck out when so agreed, if in the opinion of the superintendent the circumstances are such that it is not necessary.

S.M.S.A.

2 Z

hereon are adopted as part of this agreement. Every fine imposed shall be forthwith reported to a superintendent of a Mercantile Marine Office, and shall be deducted from the wages of the boy and paid by the master to such superintendent. And it is hereby further agreed that the boy shall not be required to serve on any boat in which the master is not during the continuance of such service himself serving as skipper, second hand, or seaman, or in which the master does not during the continuance of such service possess an interest of at least eight sixty-fourth shares. And it is agreed that the boy shall receive from the master the wages and remuneration aforesaid at the times stated on the back hereof, and that the boy shall be entitled to participate in any sum or sums of money arising from any salvage or salvage services performed or rendered by or by means of the boat on which he is serving, or the crew thereof, in such proportion as is stated on the back hereof.

And it is hereby further agreed that breaches of agreement or discipline alleged to have been committed by the boy during the continuance of this agreement shall not be taken before any court for adjudication, unless and until a superintendent of a Mercantile Marine Office shall have first had an opportunity of inquiring into the same, and have declined so to inquire, or shall upon inquiry determine to send the same for adjudication.

And it is further agreed that either the boy or the master shall be entitled to appeal to the said superintendent to decide any dispute between them arising out of this agreement or in relation to the boy's service, and the said superintendent's decision shall be final.

And it is hereby further agreed that

[Here insert any stipulations not contrary to law, to which the parties agree, and which the superintendent approves.]

And it is hereby further agreed that the boy or the master may, at any time during the continuance of this agreement, give to the other days' notice to determine this agreement, and the agreement shall be determined upon the expiration of the notice, and the boy shall be entitled to wages, remuneration, and other sums (if any) up to and including the date of the expiration of such notice, to be paid on the day of such expiration: Provided always that such notice of determination shall not be capable of expiring while the boy is at sea, or at a place other than the port to which the boat on which the boy is serving belongs, or at which he was engaged.

And it is hereby further agreed that if, during the continuance of this agreement, either of the parties hereto shall apply to the superintendent to cancel the same, the superintendent may, if after investigation he shall see sufficient grounds for so doing, cancel and determine the same, and the agreement shall thereupon be cancelled and determined from the date and subject to the terms or conditions (if any) which may be endorsed thereon by the superintendent. And any sum adjudged to be due to the boy shall be recoverable by him, or on his behalf, as wages; provided that the master shall be at liberty to set off or deduct therefrom any sum adjudged to be due to him.

In witness whereof the said parties have hereunto set their hands on the day and in the year above written.

Master.
Boy.

This agreement is made before me in accordance with the Merchant Shipping Act, 1894.

Superintendent of the Mercantile Marine Office.
At the port of

NOTE.—This agreement must be executed in *triplicate*; one copy will be retained and recorded by the superintendent above referred to, one retained by the master, and the other retained by the boy.

MERCHANT SHIPPING ACT, 1894.

ENDORSEMENTS REFERRED TO IN THE BODY OF THIS AGREEMENT AND IN THE ACT.

A.—Particulars of wages, remuneration, and sums arising from salvage or salvage services.

[Here enter full particulars of all allowances, perquisites, wages, remunerations, emoluments, shares of catch, &c., with the times when the boy is to receive the same, and also the proportion of salvage the boy is to have.]

B.—I hereby certify, pursuant to section 395 of the Merchant Shipping Act, 1894, that—

(a.) this agreement complies with all the requirements of Part IV. of the Merchant Shipping Act, 1894.

(b.) the master with whom the agreement is made is a fit person for the purpose.

(c.) the boy is not under the age of thirteen years, and is of sufficient health and strength.

(d.) $\left\{ \begin{array}{l} \text{the nearest relations of the boy, or his guardians, assent to the} \\ \text{stipulations of the agreement.} \\ \text{no nearest relations or guar-} \\ \text{dians of the boy} \end{array} \right\} \left\{ \begin{array}{l} \text{can readily be found} \\ \text{are known} \end{array} \right\} \text{and in their} \\ \text{have acted as guardian for the occasion.} \quad \text{absence I}$

Dated this day of 18 .

Superintendent.

* Strike out the words which do not apply.

C.—I hereby cancel this agreement, so that the engagement shall end on the * day of 18 , and I adjudge that the master do pay to the boy on that date the sum of £ .

Dated this day of 18 .

Superintendent.

* If the agreement is to expire immediately, for "the" insert "this," and otherwise alter the certificate to meet the circumstances of the case.

D.—REGULATIONS AS TO FINES ADAPTED FROM THOSE SANCTIONED BY THE BOARD OF TRADE FOR MAINTAINING DISCIPLINE.

No.	Offence.	Amount of fine.
1	Not being on board at the time fixed by the agreement	Two shillings.
2	Not returning on board at the expiration of leave	Two shillings.
3	Striking or assaulting any person on board or belonging to the ship (if not otherwise prosecuted)	Two shillings.
4	Bringing or having on board spirituous liquors	Two shillings.
5	Drunkenness. First offence	Two shillings.
5	Ditto. Second, and for each subsequent offence	Four shillings.
6	Sleeping, or gross negligence while on the look-out.	Two shillings.
7	Destroying or defacing the copy of the agreement which is made accessible to the crew	Two shillings.
8	When on watch failing to exhibit lights at proper time	Two shillings.

APPENDIX XIV.

PASSENGERS' TICKETS.

STEERAGE PASSENGER'S CONTRACT TICKET.

Notice under the Merchant Shipping Act, 1894.

WHEREAS by the 320th section of the Merchant Shipping Act, 1894, it is enacted that—

“(1.) If any person, except the Board of Trade and persons acting for them and under their direct authority, receives money from any person for or in payment of a passage as a steerage passenger in any ship, or of a passage as a cabin passenger in any emigrant ship, proceeding from the British Islands to any port out of Europe, and not within the Mediterranean Sea, he shall give to the person paying the same a contract ticket, signed by or on behalf of the owner, charterer, or master of the ship, and printed in plain and legible characters.

“(2.) The contract ticket shall be in a form approved by the Board of Trade and published in the *London Gazette*, and any directions contained in that form of contract ticket not being inconsistent with this Act shall be obeyed as if set forth in this section.”

And whereas the Board of Trade have approved of a form of contract ticket, hereinafter called a “Steerage Passenger's Contract Ticket,” to be so given as aforesaid to persons paying money for or in respect of a passage as a steerage passenger in any ship proceeding from the British Islands to any port out of Europe, and not within the Mediterranean Sea.

Now, therefore, the Board of Trade, in exercise of the powers vested in them by the said recited Act, do hereby (1) signify their approval of the said subjoined form of steerage passenger's contract ticket; and (2) declare and prescribe that the same shall come into operation on the 1st day of January, 1895.

Ship

COUNTERPART OF
STEERAGE PAS-
SENGER'S CONTRACT
TICKET.

THIS part of the contract ticket is to be separated from the other, and to be delivered by the passenger to the emigration officer at the port of embarkation (or, if no such officer, to the officer of customs), or to any one appointed by him to receive it,

STEERAGE PASSENGER'S CONTRACT TICKET.

These directions, and the “Notices to Steerage Passengers” below, form part of, and must appear on, each contract ticket.

1. A contract ticket in this form must be given to every person engaging a passage as a steerage passenger in any ship proceeding from the British Islands to any port out of Europe, and not within the Mediterranean Sea, immediately on the payment or deposit by such steerage passenger of the whole or any part of the passage money, for or in respect of the passage engaged.

2. The victualling scale for the voyage must be printed in the body of the ticket.

3. All the blanks must be correctly filled in, and the ticket must be printed in plain and legible characters, and legibly signed with the Christian names and surname and address in full of the party issuing the same.

4. The day of the month on which the steerage passengers are to embark must be inserted in words, and not in figures.

under a penalty not exceeding £10.

CONTRACT TICKET.

I engage that the person mentioned below shall be provided with a steerage passage to and be landed at the port of _____ in _____ in the ship _____ of _____ tons with not less than ten cubic feet for luggage for each statute adult, and shall be victualled during the whole voyage according to the dietary table prescribed by law. The ship to receive her passengers at _____ on the _____ day of _____ 18 _____. Passage money, including Government dues, if any, and all charges of landing £ _____

Names.	Ages.

(*) _____ souls, equal to statute adults.

To be signed
in full by the
party issuing
the ticket.

(*) Insert number of souls and of statute adults respectively.

Ship
at _____ for _____

Names.	Ages.	Equal to statute adults.

5. When once issued, this ticket must not be withdrawn from the passenger, nor any alteration, addition, or erasure made in it.

6. A contract ticket shall not contain on the face thereof any condition, stipulation, or exception not contained in this form.

of _____ tons register, to take in passengers on the _____ day of _____ 18 ____.

I engage that the person named in the margin hereof shall be provided with a steerage passage to, and shall be landed at, the port of _____ in _____ in the ship _____ with not less than ten cubic feet for luggage for each statute adult, and shall be victualled during the voyage, and the time of detention at any place before its termination, according to the subjoined scale, for the sum of £ _____ including Government dues before embarkation, and head money, if any, at the place of landing, and every other charge, except freight for excess of luggage beyond the quantity above specified; and I hereby acknowledge to have received the sum of £ _____ in {full } {part} payment.

The following quantities, at least, of water and provisions (to be issued daily) will be supplied by the master of the ship, as required by law: viz. to each statute adult 3 quarts of water daily, exclusive of what is necessary for cooking the articles required by the Merchant Shipping Act, 1894, to be issued in a cooked state; and a weekly allowance of provisions according to the following scale:

[Here insert the victualling scale intended to be used on the voyage. This must be either the scale prescribed in the 298th section of the Merchant Shipping Act, 1894, or that scale modified by the introduction of articles authorized by the Act, to be substituted for oatmeal, rice, and potatoes.]

[N.B.—If mess utensils and bedding are to be provided by the ship, the stipulation must be inserted here.]

Signature in full

Place and date

[If signed by a broker or agent, state on whose behalf.]

Deposit £ _____

Balance £ _____

Total £ _____

to be paid at

Notice to Steerage Passengers.

1. If steerage passengers, through no default of their own, are not received on board on the day named in their contract tickets, or fail to obtain a passage in the ship, they should apply to the Government Emigration Officer at the port, who will assist them in obtaining redress under the Merchant Shipping Act, 1894.

2. Steerage passengers should carefully keep this part of their contract ticket till after the end of the voyage.

N.B.—This contract ticket is exempt from stamp duty.

Given under my hand this 13th day of December, 1894.

COURTENAY BOYLE,

Board of Trade, 7, Whitehall Gardens, London, S.W.

Secretary.

Notice under the Merchant

WHEREAS by the 320th section of the Merchant Shipping Act, 1894, is enacted

"(1.) If any person, except the Board of Trade and persons acting for them and under a steerage passenger in any ship, or of a passage as a cabin passenger in any emigrant Mediterranean Sea, he shall give to the person paying the same a contract ticket plain and legible characters.

"(2.) The contract ticket shall be in a form approved by the Board of Trade and ticket not being inconsistent with this Act shall be obeyed as if set forth in this

And whereas the Board of Trade have approved of a form of contract ticket, hereinafter paying money for or in respect of a passage as a cabin passenger in any emigrant ship Mediterranean Sea.

Now, therefore, the Board of Trade, in exercise of the powers vested in them by the "Cabin Passenger's Contract Ticket;" and (2) declare and prescribe that the same shall

COUNTERPART OF CABIN PASSENGER'S CONTRACT TICKET.

This counterpart is to be produced by the owner, charterer, or master of the ship to the emigration officer at the port of embarkation (or, if no such officer, to the officer of customs), or to any one appointed by him to receive it, under a penalty for default not exceeding £10.

These directions form part of, and must appear on, each contract ticket.

1. A contract ticket in this form must be given to every person engaging a passage as a cabin passenger in an emigrant ship proceeding from the British Islands to any port out of Europe, and not being within the Mediterranean Sea, under a penalty not exceeding £50.

2. Unless the passengers are to have a free table, the victualling scale for the voyage must be appended to the contract ticket.

3. All the blanks must be correctly and legibly filled in, and the ticket must be printed in plain and legible characters, and legibly signed with the Christian names and surname and address in full of the party issuing the same.

4. The day of the month on which the ship is to sail must be inserted in words, and not in figures only.

5. When once issued, this ticket must not be withdrawn from the passenger, nor any alteration or erasure made in it, unless with his consent.

Ship of _____ tons register, to sail from _____ for _____ on the _____ day of _____ 18 _____.

Names.	No. of persons.	
	Adults above 12 years.	Children 12 years and under.
Total No. of persons		

In consideration of the sum of £ I hereby agree with the person named in the margin hereof that such person shall be provided with class cabin passage in the above-named ship, to sail from the port of for the port of in with not less than cubical feet of luggage for each person, and that such person shall be victualled as class cabin passenger during the voyage, and the time of detention at any place before its termination; and I further engage to land the person aforesaid, with luggage, at the last-mentioned port, free of any charge beyond the passage money aforesaid; and I hereby acknowledge to have received the sum of

£ in $\left\{ \begin{smallmatrix} \text{full} \\ \text{part} \end{smallmatrix} \right\}$ payment of such passage money.

Signature in full

Place and date

[If signed by a broker or agent, state on whose behalf.]

Deposit £

Balance £

Total £

to be paid at

N.B.—This contract ticket is exempt from stamp duty.

CONTRACT TICKET.

711

Shipping Act, 1894.

that—

their direct authority, receives money from any person for or in respect of a passage as ship, proceeding from the British Islands to any port out of Europe, and not within the signed by or on behalf of the owner, charterer, or master of the ship, and printed in

published in the *London Gazette*, and any directions contained in that form of contract section."

called a "Cabin Passenger's Contract Ticket," to be so given as aforesaid to persons proceeding from the British Islands to any port out of Europe, and not within the

said recited Act, do hereby (1) signify their approval of the said subjoined form of come into operation on the 1st day of January, 1895.

CABIN PASSENGER'S CONTRACT TICKET.

These direc-
tions, and the
"Notices to
Cabin Passen-
gers" below,
form part of,
and must ap-
pear on, each
contract ticket.

1. A contract ticket in this form must be given to every person en-
gaging a passage as a cabin passenger in an emigrant ship proceeding
from the British Islands to any port out of Europe, and not being within
the Mediterranean Sea, under a penalty not exceeding £50.

2. Unless the passengers are to have a free table, the victualling
scale for the voyage must be appended to the contract ticket.

3. All the blanks must be correctly and legibly filled in, and the
ticket must be printed in plain and legible characters, and legibly
signed with the Christian names and surname and address in full of
the party issuing the same.

4. The day of the month on which the ship is to sail must be
inserted in words, and not in figures only.

5. When once issued, this ticket must not be withdrawn from the pas-
senger, nor any alteration or erasure made in it, unless with his consent.

Ship of tons register, to sail from for on the
day of 18 .

Names.	No. of persons.	
	Adults above 12 years.	Children 12 years and under.
Total No. of persons		

In consideration of the sum of £ I hereby agree
with the person named in the margin hereof that such
person shall be provided with class cabin passage
in the above-named ship, to sail from the port of for
the port of in with not less than cubical
feet of luggage for each person, and that such person shall
be victualled as class cabin passenger during the
voyage, and the time of detention at any place before its
termination; and I further engage to land the person
aforesaid, with luggage, at the last-mentioned port,
free of any charge beyond the passage money aforesaid;
and I hereby acknowledge to have received the sum of
£ in {full } payment of such passage money.
Signature in full
Place and date

[If signed by a broker or agent, state on whose behalf.]

Deposit £
Balance £
Total £

to be paid at

Notice to Cabin Passengers.

1. If cabin passengers, through no default of their own, fail to obtain a passage in the ship, and on the day named in this contract ticket, they may obtain redress for breach of contract by summary process under the 321st and 357th sections of the Merchant Shipping Act, 1894.

2. Cabin passengers must produce, on demand, their contract tickets to the Government Emigration Officer, under a penalty not exceeding £10. This ticket should therefore be preserved and kept in readiness to be produced on board the ship.

N.B.—This contract ticket is exempt from stamp duty.

Given under my hand this 13th day of December, 1894.

Board of Trade, 7, Whitehall Gardens, London, S.W.

COURTENAY BOYLE,
Secretary.



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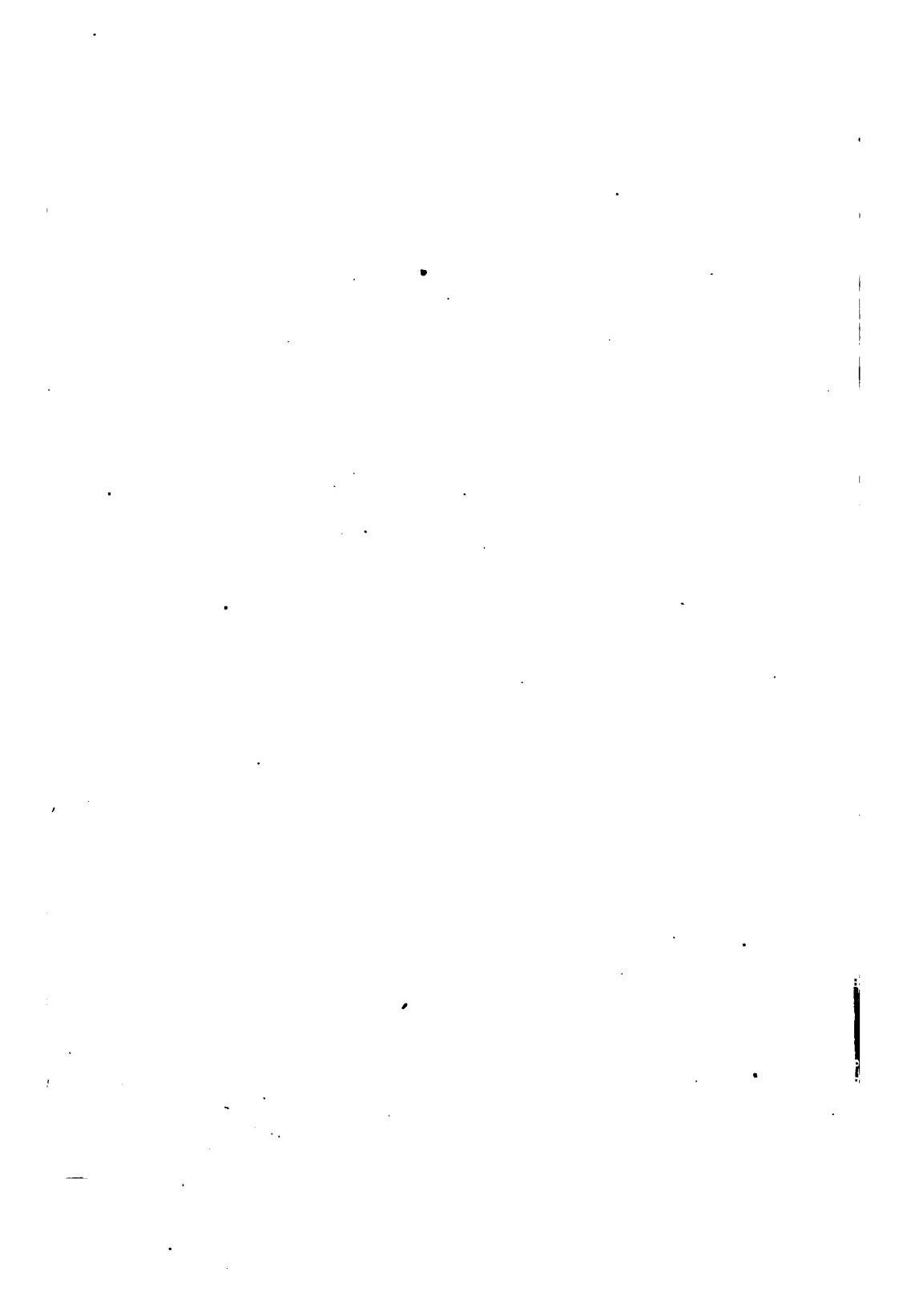
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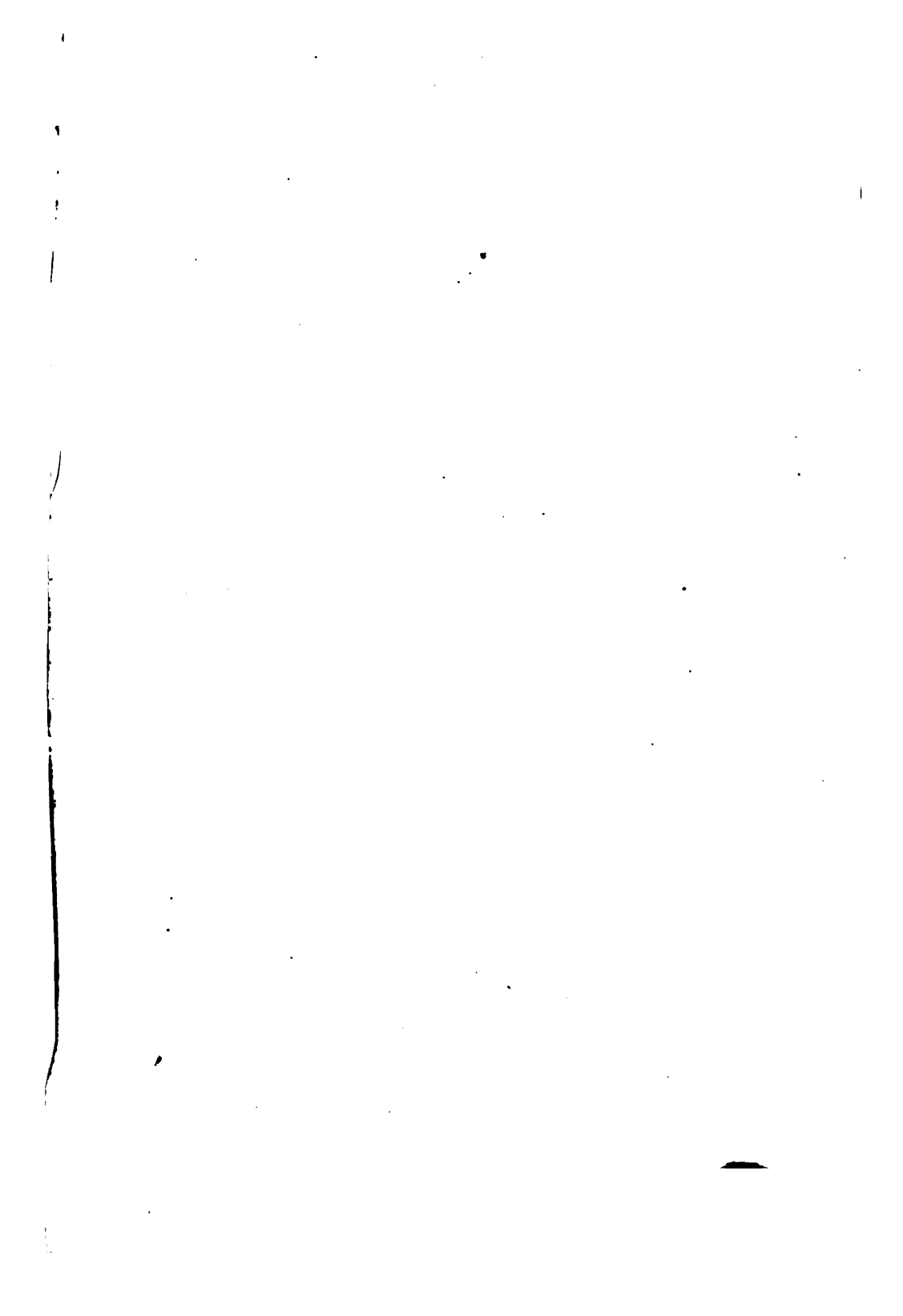
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